

TRANSLATED EXCERPTS FROM

**GENDER JUSTICE AND
WOMEN'S RIGHTS IN IRAQ**

Including Materials from the
Gender Justice in Iraq Conference,
Held in Amman, Jordan, November 11-14, 2005

**International Human Rights Law Institute
DePaul University College of Law
In Cooperation with the National Democratic
Institute for International Affairs**

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International Human Rights Law Institute

In 1990, the International Human Rights Law Institute was established within DePaul University College of Law in response to sweeping global changes that created new opportunities to advance human rights and strengthen domestic and international legal institutions. The Institute is dedicated to developing and promoting international human rights law and international criminal justice through fieldwork, research, documentation, publications, and advocacy.

Copies of this report are available from:

International Human Rights Law Institute, DePaul University
College of Law
25 East Jackson Boulevard, 8th Floor
Chicago, IL 60604
Tel: (312) 362-5919 ▪ Fax: (312) 362-5923
E-mail: iharli@depaul.edu ▪ Web: www.iharli.org

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Introduction

Iraq now faces an historic moment in which the country should reflect on its legacy of authoritarian rule while envisioning a free democratic society based on respect for fundamental human rights and the rule of law. The new constitution represents a foundational element of this complex social and political process. It has provided an important opportunity for the nation to build on its unique heritage, unite its multiple ethnicities, and create the blueprint for future peace and stability.

The drafting process for the constitution is outlined in the Transitional Administration law (TAL). Following these procedures, the drafting took place after the election of the National Assembly and the Presidential Council (composed of a President and two Vice-Presidents) and the appointment of a Prime Minister and Cabinet. The National Assembly formed a Constitutional Drafting Committee charged with presenting a draft of the new constitution by the end of August 2005. In October 2005, the Iraqi people affirmed the constitution, signaling the end of the transitional period.

Drafting a new Iraqi Constitution has required a thorough understanding of Iraq's rich constitutional history, spanning the period from the passage of the Basic Law of 1925 through the Draft Constitution of 1990. Also valuable was the consideration of the constitutions of the other twenty-one Arab states, as well as the

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relationship of these foundational documents to international human rights instruments and standards.

In an effort to assist the Iraqi people in the process of creating a new Constitution, the International Human Rights Law Institute at DePaul University (IHRLI), in cooperation with the National Democratic Institute for International Affairs (NDI) and the American Bar Association (ABA), prepared a series of publications. These include:

1. *Iraqi Constitutional Studies Regarding Basic Principles for the New Iraqi Constitution*;
2. *A Compilation of Iraqi Constitutions and a Comparative Study of International Human Rights Standards*;
3. *A Compilation of Arab Constitutions and a Comparative Study of International Human Rights Standards*;
4. *A Compilation of Legislative Laws and Regulations of Select Arab Legal Systems*;
5. *Public Freedoms and Democracy*; and
6. *Gender Justice and Women's Rights in Iraq*.

These publications built on the knowledge and insights gained through previous projects in Iraq.

From 2003-2005, IHRLI has also conducted the Raising the Bar: Iraqi Legal Education Reform Project, which ranked among the earliest reconstruction programs in Iraq.

This project, funded by the US Agency for International Development (USAID), concentrated in the following areas:

- Rule of Law and Good Governance
- Legal Curricular Reform
- Rebuilding and Equipping Libraries with the Latest Technologies
- Clinical and Practical Education Programs

As part of this project, IHRLI organized four seminars on subjects related to the new Iraqi Constitution, property claims, ethics in legal professions, and the implementation of international criminal justice

principles in Iraq. IHRLI also oversaw the rebuilding of three law libraries at the Universities of Baghdad, Basra, and Suleimaniya, as well as providing books, journals, computers, and internet access to these law schools.

IHRLI also organized a series of training workshops for Iraqi Jurists, law professors, and members of the Iraqi Judiciary in cooperation with the International Institute of Higher Studies in Criminal Sciences (ISISC) in Siracusa, Italy.

These efforts have sought to support Iraqi legal education and promote the adoption of international human rights standards in Iraq.

With the approval of the new Iraqi Constitution, Iraq faces the new challenge of applying the principles outlined in its constitution in such a way that ensures its objectives. This may be achieved through a number of means, including special implementation of laws of constitutional principles (*i.e.*, Basic Laws).

In anticipation of this process, IHRLI, in collaboration with NDI, organized a conference to address women's rights in Iraq and in the larger Arab world entitled, the Gender Justice in Iraq Conference. It was held in Amman, Jordan, November 11-14, 2005. Participants included thirty Iraqi and Arab women experts in the fields of government, science, medicine, engineering, and academia.

The Gender Justice in Iraq conference resulted in the production of twenty-four specialized essays written by participants and other invited contributors. They are presented in two parts: part 1 includes fifteen studies focusing on women's issues in Iraq; and part 2 includes nine studies focusing on Arab experiences and how Iraqi women can draw from them to improve conditions in their own society. Part 3 includes the important Recommendations issued by conference participants in the form of a Final Communiqué, as well as a List of Participants.

In tandem, we thought it was important to produce this booklet of four translated essays and conference materials for non-Arabic speakers. We hope that it will raise awareness of this important undertaking by Iraqi and Arab experts in the field of women's rights.

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I would like to take this opportunity to thank all of those who participated in this Conference, which was chaired by Dr. Badria El Awadhi. I would also like to extend gratitude to all of those who contributed essays to this book, especially The Hon. Zoubida Assoul, who served as Editor.

All of those who participated in this project hope that Iraqi lawmakers and policymakers would benefit from this effort, leading to improvements for Iraq and Iraqi women, as well as for the larger Arab world and Arab women. Our Arab society will not be complete unless there is a full integration of women, which requires full equality and justice within the constitution and legislative framework.

To conclude, the staff at IHRLI hopes that these publications and project prove to be valuable to the Iraqi people.

Finally, it is appropriate to recall the following verses from the Holy Qur'an:

*"We have honoured the sons of Adam; provided them with transport on land and sea; given them for sustenance things good and pure; and conferred on them special favors above a great part of Our Creation."*¹

*"O mankind! We created you from a single (pair) of a male and female, and made you into nations and tribes, that ye may know each other (not that ye may despise each other). Verily the most honoured of you in the sight of Allah is (he who is) the most righteous of you. And Allah has full Knowledge and is well-acquainted (with all things)."*²

"And consult them in affairs (of moment). Then, when thou hast taken a decision, put thy trust in

¹Holy Quran, Surat al – Esra'a number 17, Aya number 70.

²Holy Quran, Surat al-Hujurat number 49, Aya number 13

Allah. For Allah loves those who put their trust (in Him).”³

“Those who hearken to their Lord, and establish regular prayer; who (conduct) their affairs by mutual Consultation; who spend out of what We bestow on them for Sustenance.”⁴

M. Cherif Bassiouni

Distinguished Research Professor of Law and President,
International Human Rights Law Institute, DePaul University;
International Institute of Higher Studies in Criminal Sciences,
Siracusa, Italy; Honorary President, International Association
of Penal Law, Paris, France

³ Holy Quran, Surat A-Imran number 3, Aya number 159

⁴ Holy Quran, Surat al-shura number 42, Aya number 38

Part One

Essays Related to Iraq

1

Iraqi Women: Between Law and Culture

Dr. Fawzia Al Attia^{*}

I. The Challenge of the Study

Culture is a basic starting point for examining the situation facing women today. Because Iraqi society has undergone considerable change during the last sixty years, analyzing its culture has become a pressing scientific demand—particularly given the exceptional circumstances of the last two decades that have presented Iraqi society, especially Iraqi women, with new realities. These realities have served to reintroduce some of the “traditional” elements of Iraqi culture that have evolved over time and can be traced to the ancient civilization of Iraq, as well as to Bedouin culture and agrarian society. As a result, Iraqi cities have suffered tensions between two prevailing cultures: “traditional culture,” which has its origins in tribal values, and “urban culture” in its various forms. This has led to a conflict between customs, traditions, and social norms and the law. This is particularly true with regard to women’s issues.

Moreover, the lack of civil authority and rule of law under the Ba’athist government led the public to rely on secondary social orders

^{*} Professor of Sociology, Baghdad University.

to provide protection and make advances. This may have been helpful in times of crisis, but it has ultimately relegated social life to less developed, provincial forms as cities became increasingly influenced by rural culture. This affected various segments of society, particularly women, negatively.

II. Importance of the Study

The importance of our study stems from a situation that has become prevalent in Iraqi society today, namely the degeneration of urban life and neglect of the social and cultural standards that contributed to the development and growth of Iraqi society. Continued wars and economic sanctions have had grave social, economic, and psychological affects on Iraqi citizens, which now call for the serious attention of civil society and state institutions and the rule of law.

II. Objectives of the Study

This study aims to identify the influence of customs and traditions on the legal status of Iraqi women. It seeks to identify:

1. the influence of culture as a historical authority on the legal status of Iraqi women;
2. the impact of cultural changes in the second half of the past century on the legal status of Iraqi women; and
3. the role played by cultural diversity as a cumulative cultural factor in the legal status of women.

The Situation of Iraqi Women and Its Indicators

The Status of Iraqi and Arab women has been determined by prevailing social, economic, and historical conditions in society. Therefore, their solutions require an appreciation of the uniqueness of each individual society and an understanding of its cultural patterns.

The general social order, the division of labor, participation in production and decision-making, and cultural structures (relations and

hierarchies) are considered basic, or independent, variables. Culture as a complex expression of social reality is made up of language, customs, traditions, social mores, and psychological inclinations. It is a set of intervening variables. In this formulation, the status of women is considered a resultant, or dependent, variable.

Like other women, the status of Iraqi women and Arab women in general is a direct result of the prevailing social order, the nature of social structures, the manner in which labor is divided, and the extent of participation in the production process. Therefore, their standing will only change when these conditions change because culture determines social reality, lending it legitimacy. Psychological factors are also determined by the status of individuals and social categories within social structures and their roles in production and the division of labor. Although cultural and psychological changes affect the status of women and their social position, this does not take place without making changes in the social order and social structure.

In our study, it is important to look at the status of women through cumulative cultural, social, and psychological factors, as well as tensions between family and religious dictates on women and public dictates on women.

Status Structure and the Position of Women

Studying the social structure of any society requires first identifying family relations and the various segments of the population.

Classification of the Population

Iraqi society and Arab societies in general are often considered a single social and cultural entity, despite the economic, political, and demographic disparities among states in the Arab world. The population of the Arab world may be divided into three distinct groups that are mutually influential and interactive: Bedouin society, agrarian society, and urban society.

A. The Bedouins

The Bedouins represent a segment of the population that historically has not settled on a particular land but are nomadic, constantly traveling with herds of animals.

Approximately 80% of Arab territory is desert land inhabited by only 10% of the total Arab population,⁵ including: four million in the Arabian Peninsula; two million in Iraq, Syria, and Jordan; three million in the Sudan; a quarter of a million in Libya; and seventy-five thousand in the Western and Algerian Sahara and Egypt.

For Bedouins, the tribe (clan, phratry, or sept) is the definitive unit of the social structure. It is a social relationship in which the all-important concept of lineage is ascribed to the father. A tribe is also a political relationship. The three most important characteristics of the Bedouin society are: tribalism, courage, and invasion. Ibn Khaldoun wrote that tribalism manifests itself in the solidarity of the tribe and the promotion military success and political victories. Its values include allegiance to the group, hospitality, courage, and revenge. Bedouins are characterized by individualism and an aversion to outward authority, with the exception of the tribal chief. Basic transformations have taken place since the 1930s, in the wake of social changes brought about by new oil wealth in a number of Arab states and exposure to urban life.

B. Agrarian Population and Farmers

Since World War II, the majority of the Arab world has been agrarian, with a general population that works in agriculture. Until the discovery of oil, this economic sector was considered most important. The agrarian population represents over two-thirds of the productive work force in Arab society, a percentage that bolsters their statistical and economic importance. The family is the basic social unit of agrarian society, and social interaction is strong and subject to kin relations. Agricultural society is characterized by traditionalism and widespread illiteracy.

⁵ Saad Eddin Ibrahim, *The New Arab Social Order: A Study of the Social Impact of Oil Wealth*, 1982, p. 5.

In 1975, rural and desert populations represented approximately 60% of the population of the Arab world. However, increased migration to the cities led to the spread of rural values to the cities, including the Iraqi capital of Baghdad, *i.e.*, the ruralization of urban areas. As a result, according to the estimates of the United Nations 2000 Statistics, desert and rural populations decreased to approximately 42%.

C. Urban Centers

Urban populations are concentrated in cities and work in the areas of trade, management, and liberal professions. The group concept still prevails in Iraqi and Arab urban areas,—with importance placed on the group, the tribe, and the family and not to individuals. This has led to the diminished role of women in the family and society, according to the prevailing culture in society.

Within Iraqi society, there are various forms of family, including: the nuclear family, the husband and married children; the paternal extended family, the couple, their children and grandchildren; and the compound family, married brothers, their wives and children. The tribal family often consists of several hundred, and sometimes as much as several thousand, individuals of the same descent.⁶

The tribal family is a social institution that emerged from living conditions of Bedouins in the desert and the dangers attending that lifestyle. These constant threats drive the paternal family to cohesiveness in order to ward off dangers and mutual defense. The individual is, therefore, a member of the group and not an independent person.

In general, family and marriage practices have undermined the standing of women, making them a type of commodity. For example, fathers can take a dowry for their daughters in consideration of having protected her and raised her well. However, the dowry is also considered a security to a woman in the event of a separation from her husband.⁷ Other examples are the marriage of exchange practiced in some rural areas, whereby two men exchange their respective wives,

⁶ Fawzia Al-Attia, *Contribution a L'Etude des Structures Sociales et de la Reforme Agraire en Irak*, Montpellier, 1968, p. 74.

⁷ Pierre Bordieu, *Sociologie de l'Algerie*, P.U.F, 1963, p.15.

and the marriage arranged by a family in the event of a murder, whereby a girl is offered to settle the dispute between the two families. The temporary marriage (or marriage of pleasure), which contradicts *Shari'a*, is a documented, though now defunct, practice, whereby warriors were allowed to use pleasure marriages during times of war by virtue of being away from their wives. It was common during Islamic wars in the era of the Prophet Mohammad, May Peace Be Upon Him. Islam has also allowed polygamy, which permits a man to take four wives, subject to being fair—a standard that almost always results in prohibition.⁸

The preferred marriage in the tribal community is inter-family, or between cousins. It is used to protect the property of the family and its relations. A cousin on the paternal side may prevent a woman from marrying someone from outside the family.

Customs and Traditions

Bedouins are the common source of the Arab population. Their customs and practices have lingered in society long after changes have occurred in the social structure. Even after major uprisings, coups, and revolutions, even in cities, and even after their numbers have dwindled, the traditional mentality of the Bedouin community has persisted. This is due to the tension between Bedouin and rural traditions, on the one hand, and urban traditions, on the other hand—which has led to the permeation of rural customs and traditions in cities.

In general, distinctions may be made in Iraqi society among three types of communities and three types of mentalities: 1) the minority, representing less developed society and agrarian populations; 2) the majority, representing traditional society, and 3) a new segment of the population that has emerged in cities that shares the cultural, technical, and ideological points-of-view of the population of many advanced societies. This third group, however, remains psychologically attached to the traditional segments in society, despite its unwillingness to adopt their practices. Some members of the social segments that have left

⁸ The Surat (Chapter) of Al-Nisaa (The Women) in *The Qur'an*, third verse: (Take two, three or four wives as you may fancy but if you fear not being fair, one suffices).

Iraqi immigrants to Western states have become even more insistent on traditional values due to the influence of certain psychological factors.

Iraqi society has experienced rapid social and cultural change, as well as the emergence of new social orders. The number of civil society organizations have increased, and modern laws have been enacted. However, the perception of women and their social role has not kept up. This requires focused efforts to conduct scientific studies that would accelerate the modernization and development process, as well as the rule of law.

The Law and Women

When generally applied, the law aims to protect society. Moreover, it is an interdependent social phenomenon linked to other phenomena.

Law is related to the existing political order and the degree of economic, social, and cultural development. It may be changed by the use of force—as in the case of revolutions or social movements that create sudden change. This change may be whole or partial, managed or planned, aimed at serving the community or directed at achieving social and cultural progress. It may also be a change organized to serve the interests of a certain segment of society.

The change in economic and social systems and laws developed in Iraq and other Arab states for the benefit of the family and women do not necessarily mean that customs or traditions have changed in these societies. Despite efforts to achieve social, economic, and cultural change, these communities are still plagued by ignorance and written and cultural illiteracy. This ignorance is a strong underpinning of the conservative tendencies in society that prevent these codes from determining social relations. They strongly adhere to customs, traditions, and mores that are influenced by the rise in rigid intellectual stereotypes and prejudices. As a result, the gap between legal codes and social reality widens.

Iraqi society is still plagued by the remnants of a backward social, economic, and cultural reality. It faces a conservative social state of affairs that prevents it from implementing its potential due to the

influence of authoritative relations and the patriarchal family. Moreover, socialization places women in an inferior position and creates, for both genders, an acceptance of their inferior standing in the family and society. Constitutions and legal codes, therefore, face a complex situation in Iraqi society that requires balancing the degree of social organization attained by society and the support available to change the reality of certain segments of the population, such as women. This results from overlooking the obstacles imposed by society at a certain period and the prevailing customs, traditions, and stereotypes of that period. This oversight may lead to adverse consequences.

Law presents a key opportunity to make changes given that the public social order, the basic variable, interacts with and mutually influences customs, traditions, and social mores. However, the more developed society and its law become, the less society is influenced by customs and traditions. Hence, social thought established a connection between law and social life, and it became necessary to amend laws, particularly with regard to civil rights, to modernize society.

Conclusion

Studying the social conditions of Iraqi women leads to a discussion of a number of concepts, such as equality and integration. Equality between men and women signifies a similar relationship to society's economic wellbeing. As for integration, it signifies that women and men have the same role and social position. Discriminating against women can be traced to the concentration of wealth and authority (power) in the hands of men, which led to an embedding of tribal traditions and clan mores, the spread of the phenomenon of polygamy, and a reinforcement of the dominating patriarchal system.

The narrow patriarchal system, the tribal mentality, and uncontested allegiance to a parental authority conflict with allegiance to a social entity consisting of male and female citizens. It conflicts with allegiance to the state and respect for abidance by the law in regulating social ties and relationships among individuals in society so as to secure public freedoms and achieve the public good.

The role of women is determined by their social role and the development of society. A change in that role leads to a changed position. Factors that support the contributions of women to labor and the building of society include social factors, freedom from tribal traditions and mores, transcending narrow secondary allegiances, modernization, the creation of new economic conditions, and a modern education.

In Iraq, social and cultural conditions have made women, even educated ones, regard education not as a means of qualification and employment, but as a means to become a good wife and mother. Customs and traditions prevent women from working in certain places and positions and dictate the degree to which women participate in leadership roles and decision-making. A genuine social change can only take place through a deviation from customs and the enactment of legislation in a manner that precludes discrimination against women and achieves equality and justice among all citizens without discrimination. This was attained after the revolution of July 14, 1958. However, the circumstances of war and economic sanctions have caused a setback and a return to secondary allegiances, such as tribal relations and an adherence to customs and traditions.

Recommendations and Proposals

1. To begin social and anthropological studies that may be used to identify social impediments to the enhancement of the standing of women; altering perceptions of women and their role in the society;
2. To educate society on the importance of women's standing in society and to its development;
3. To work towards promoting the standing of Iraqi women through education, the media, and civil society organizations in order to change the perception of women and enhance their role in society as equal citizens;
4. To enhance equality in rights between men and women, providing the legal protection necessary thereto, doing away with traditional and stereotypical views of the role of women, and removing gender discrimination;

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5. To amend the constitution in order to secure the rights of women and achieve equality and justice among citizens, particularly in relation to family laws and personal status law; and
6. To increase the participation of women in civil society organizations and in political bodies, particularly the Parliament.

2

Achieving Peace by Spreading the Culture of Human Rights and Women's Rights

Dr. Maysoon Al Damluji*

Introduction

Culture has an organic and important role in establishing human rights and women rights and, in turn, in achieving peace in society. Without a global popular culture that believes in and defends these values, the aspirations of the Iraqi people, as embodied in its new constitution, laws, and program of social justice, will remain ineffective.

The culture of a society is a set of values that reflects the development and ideas of that society at a given point in time. It has a non-stationary, organic nature; it flourishes when society flourishes and declines when society declines. Moreover, it is characterized by slow growth. It cannot be created magically overnight. Culture is not restricted to writing a poem or translating a book or composing music (what is normally called High Culture). Personal creativity and individual and collective demands also react to prevailing economic factors, regional and international influences, local traditions and

* Former Under-Secretary of Culture.

mores, and ethical, spiritual, and religious values. They also react to government policies, services, laws, and, in particular, human rights.

Impediments in Iraqi Culture and Cultural Gaps

Present-day Iraq suffers from a number of local, regional, and international conflicts that manifest themselves at times in the form of violence, violations of human rights, and political and physical repression. This situation follows a long legacy of totalitarianism and disparities in the standard of services delivered to rural and urban areas. More than three decades of injustice, militarization, and economic and intellectual isolation led to the deterioration of social values, including the decline in respect for the role of women and, hence, the deterioration of social and individual cultures alike. Cultural recession has led to a number of tensions within Iraqi society that we must identify before attempting to promote Iraqi culture. Our goal is to identify effective solutions and embed new values that will support peace and the development process.

Tension between International Cultural Change and Local Traditions

Local attitudes are ambiguous about accommodating international cultural changes and using them to improve individual standards of living. For example, world technologies—such as electricity, medicine, telephones, television, corrective eyewear, computers, cars, and airplanes, etc—which reflect the intellectual openness of the societies that invented or discovered them, are part of the day-to-day local culture that no one can do without. Yet, local culture rejects the intellectual approach and social values of the societies that produced these technologies. This became apparent in the process of formulating the new Iraqi constitution, when international conventions that protect human, women, and children's rights were rejected and labeled alien to Iraqi principles. Despite the fact that various Iraqi communities have accepted the role of women as educated persons, employees, physicians, engineers, and ministers, local attitudes are still wary of giving women the freedom to select their own lifestyles,

claiming a fear of sexual promiscuity that would cause the family and, hence, society to collapse and its values to weaken.

*Tension between Rural and Urban Societies and the
“Ruralization” of Cities*

Iraqi culture suffers from a tension between urban society and rural society. Urban society is generally characterized by the dynamism of complex social and economic relations that make it more receptive to change. Rural society is generally characterized by longstanding relations that are socially and economically simple that make it more insistent on local traditions and mores, including those related to the culture of women, such as killing to purge disgrace.

Several factors, including the disparity in economic policies for rural and urban areas, have led to a vast migration from the country to the city. Due to the nature of the rural family, which tends to be larger, the rural immigrant population has surpassed that of the urban population in Iraqi cities. As a result, the values and traditions of rural society have come to prevail in cities.⁹

Gap in the Social Roles between Women and Men

Circumstances in Iraq, such as the ongoing wars, economic sanctions, and migrations of large numbers of men, have placed the burden of familial, economic, educational, social, and other responsibilities on women. Present conditions have paved the way for women to assume senior-level government positions. However, the publicly prevailing perception of women's social role has not kept up with changing social conditions and, in fact, has declined remarkably since the 1950s.¹⁰

⁹ If we compare poetry written in the 1950s by Al-Haydari, Al-Sayyab, Al-Malaeka, Al-Nawab, and others, including Al-Qabbani outside Iraq, and today's poetry, we find a transformation in creative concepts in the form of decreased expressive material. Poetic treatment has become almost entirely restricted to praise.

¹⁰ If we compare songs from the 1950s and today's songs, we find the number of female singers has decreased considerably and the social perception of women in songs has worsened. Creative Iraqis liken women to “oranges,” for example, even

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Complicating matters, women themselves play a part in embedding gender stereotypes. Despite the large number of women's organizations calling for equal rights for Iraqi women and women's effective participation in social and political life, women themselves, in many cases, rejected this proposition and aligned themselves with men at the National Assembly when women's organizations were accused of libertinism.

Gaps between the Cultural Policies of Various Iraqi Government Ministries

Iraq has endured a difficult transitional period during the past three years. In the interest of reconciliation, Iraqi ministries have been filled according to sectarian and party quotas, and ministers were allowed to implement their parties' policies within their ministries. Despite the importance of the Ministry of State for Women's Affairs and Activities, conflicts between the cultural views of the various parties have restricted the development of an overall strategy for the Iraqi state.

Recommendations

In a few weeks' time, the people of Iraq will elect a national assembly for a tenure of four years. The assembly will amend the provisions of the constitution and enact more than fifty laws that will shape the constitution and the manner in which it is implemented. Therefore, the following recommendations do not concern civil society organizations apart from the elected political body.

1. Urgently providing services to the people, including: security, water, electricity, sewage, health care, education; the environment; and job opportunities.

while women battle with male politicians to share responsibility for shaping the future of Iraq and suffer from a lack of security and services.

2. Respecting human rights and endorsing international conventions, particularly those that concern women.
3. Recognizing freedom of expression in all its forms, as well as the intellectual diversity of the Iraqi people.
4. Adopting standards of efficiency and integrity for ministerial positions, apart from the sectarian and party quota system, particularly in the Ministries of Women and Culture.
5. Adopting standards of efficiency, integrity, and judicial expertise for members of the Supreme Federal Court, apart from sectarian and party quotas.
6. Recognizing the role of civil society organizations in formulating the cultural policies of political leaders.
7. Invigorating civil society organizations by recognizing their role in influencing proactive leaders in society, particularly political, religious, cultural, and tribal leadership.

Part Two

Essays Related to the Arab World

3

Where are Iraqi Women? International Instruments for Protection against Discrimination

Dr. Fatima Sbaity Kassem*

Power dynamics that prevent women from living “fulfilling” lives exert an influence at all levels, from the personal to the highest level of public life. Discrimination hinders the improvement of women’s social position and their ability to participate fully in the development process.¹ Therefore, involving women and men on an equal footing in decision-making is necessary for creating a balance that more accurately reflects the composition of society and enhancing democracy. Involving women in all areas of life and guarding against gender discrimination are critical components of promoting the status of women in general. Not only is this necessary for justice and democracy, it is essential for recognizing and promoting the interests of women. Without women’s active participation at all levels of decision-making, the three goals of the Fourth World Conference on Women—equality, development, and peace—cannot be achieved.

* Former Director of the Women’s Center At the United Nations Economic and Social Commission for West Asia (ESCWA)

¹ Discrimination against women takes several forms, the most critical of which are the twelve areas identified in the 1995 Beijing Declaration, among them: education, health, employment, political participation, human rights, domestic laws and codes, violence against women, the effect of wars and armed conflicts, and poverty.

International Covenants and Agreements

Most international covenants and agreements² protecting women's rights are based on the International Bill of Human Rights. The most important of these instruments is the Universal Declaration of Human Rights. There are also a number of covenants that are directly concerned with women's participation in public affairs, namely: the UN Covenant on Civil and Political Rights, the Declaration on the Elimination of Discrimination against Women, and the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW). Recommendations have also been issued by international and regional conferences, including: the Beijing Declaration (1995), the Arab Plan of Action for the Advancement of Women (2005), and the Unified Arab Programme for Action for Women (1996). These texts give principal importance to the participation of women in public affairs and stress the commitment of states to this right without discrimination.

I. The International Bill of Human Rights, prepared by the United Nations Commission on Human Rights, affirms the international community's faith in fundamental human rights, the dignity and worth of the human person, and the equal rights of men and women. The treaty consists of multiple instruments, two of which are related, if indirectly, to women:

- **Universal Declaration of Human Rights**, endorsed by the General Assembly in December 1948 (G.A. res. 217A (III), U.N. Doc A/810 at 71 (1948)).

² States can express a variety of intentions with regard to an international treaty: signature is not legally binding; it is merely a declaration of intentions on the part of a state. Accession to a convention is possible without signature. Ratification is the last stage in accepting the legal commitments of a treaty and is usually preceded by a signature. For a state to become a party to a convention, following endorsements within the state (by the Parliament and/or legislature), the necessary ratification instruments must be presented to the UN Secretary General. A convention becomes binding to a state thirty days after instruments are deposited with the United Nations Legal Office. A convention enters into force when twenty states have ratified it, deposited its ratification instruments, and entered into it.

- **International Covenant on Civil and Political Rights and the Optional Protocol**, endorsed by the General Assembly in December 1966 (G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, *entered into force* Mar. 23, 1976).

Several Arab states—Egypt, Iraq, Jordan, Kuwait, Lebanon, Syria, and Yemen—have ratified these instruments.

II. The Convention on the Political Rights of Women is the first instrument directly concerned with granting women political rights. It was issued by the United Nations General Assembly by virtue of Resolution 640 (VII) (1952) and entered into force in July 1954. It stresses the principle of equal rights for women and men as stipulated in the United Nations Charter and the right of participation in managing public affairs and the right to hold public office and exercise public functions and political rights (i.e., suffrage and candidature).

III. The Declaration on the Elimination of Discrimination against Women was issued by the United Nations General Assembly by virtue of Resolution 2263 (XXII) (1967). It emphasizes the principles of the United Nations Charter, including the belief in fundamental human rights, the dignity and value of all individuals, and equal rights for men and women. It also stresses the principle of non-discrimination as stipulated in the Universal Declaration of Human Rights, which declares that all people are born free and equal, without discrimination based on gender. The declaration also stresses that discrimination against women is fundamentally unjust, constituting an offence against human dignity and the welfare of the family and society.

Articles 1, 2, 3 and 4 of the Declaration stipulate that appropriate measures must be taken to abolish existing laws, customs, regulations, and practices that discriminate against women. They also call for the establishment of adequate legal protections for the equal rights of men and women—including the rights to vote in elections and be eligible for election to all publicly elected bodies.

IV. The Convention on Elimination of All Forms of Discrimination Against Women (CEDAW) was adopted by the General Assembly in December 1979 and entered into force in September 1981 after ratification by twenty states. As of September 2005, seventeen Arab

states have ratified the agreement, including: Algeria, Comoros, Djibouti, Egypt, Iraq, Jordan, Kuwait, Lebanon, Libya, Mauritania, Morocco, Tunisia, and Yemen in April 1997; the Kingdom of Saudi Arabia in September 2000; the Kingdom of Bahrain in June 2002; Syria in March 2003; and the United Arab Emirates in January 2004.

The CEDAW Preamble links women's rights to human rights and the basic principles of the United Nations Charter. It reminds the international community that all human rights conventions issued by the United Nations and its specialized agencies make men and women equal in enjoying the rights stipulated therein and notes that special instruments have been adopted to promote the principle of equality of men and women. It also recognizes that large-scale discrimination against women still exists and stresses that such discrimination constitutes a violation of equal rights principles and respect for human dignity. It also shows that unjust practices against women impede their participation on an equal footing with men in all areas of life, which, in turn, impedes the prosperity and well-being of the family and community. Notably, the convention is concerned with discrimination against women and not with the broader concept of "discrimination on the basis of sex."

Article 7 of CEDAW addresses discrimination in the political and public sphere and guarantees women the right to vote in all elections and public referenda and the right to be eligible for election to all publicly elected bodies. It also safeguards the right to participate in the formulation and implementation of government policy, to hold public office and perform all public functions at all levels of government, and to participate in non-governmental organizations (NGOs) and civil society organizations, including political parties and associations, professional societies, and trade unions. Article 7 stresses giving women equal opportunities to represent their governments and participate in the activities of international organizations such as the United Nations and its specialized agencies. It also stresses that this right is a human right that can only be achieved after reviewing and amending laws and legislations and working to influence social traditions that embed gender discrimination.

CEDAW obligates state parties to present periodic reports to a special UN committee on their efforts to remove discrimination against

women. This process reinforces credibility, transparency, and accountability. Official agencies are urged to cooperate with women's organizations within the state to prepare these reports, as such interactions heighten the spirit of accountability and encourage the protection of women's rights.

CEDAW's Optional Protocol, adopted in March 1999, examines procedures related to complaints. According to the convention, a 23-member United Nations Commission for the Elimination of Discrimination against Women was set up to investigate and arbitrate these complaints.

As of September 2005, seventeen out of twenty-two Arab states had ratified the CEDAW.

Implementation of the CEDAW in Arab States

Article 28 of the CEDAW stipulates that state parties may make reservations about certain articles of the convention at the time of ratification; however, a reservation may not obstruct the object and purpose of the convention. Most Arab states that have acceded to CEDAW have made reservations about certain articles on the premise that they contradict Islamic Law (*Shari'a*) and/or provisions of domestic laws. Such reservations are restricted to:

- Article (2), concerning prohibition of discrimination in national constitutions and legislations (*Reservations were made by Algeria, Bahrain, Egypt, Iraq, Libya, Morocco, Saudi Arabia and Syria*).
- Article (7), concerning political and public life (*Reservations were made by Kuwait, which is expected to recall it, and Saudi Arabia*).
- Article (9), concerning citizenship laws (*Reservations were made by Jordan, Algeria, Iraq, Kuwait, Morocco, Tunisia, Lebanon, Egypt, Bahrain, Saudi Arabia and Syria. Libya, Yemen, the Comoro Islands and Mauritania did not have*

reservations. Tunisia and Egypt are expected to recall their reservations).

- Article (15), concerning equality in legal and civil capacity (*Reservations were made by Jordan, Algeria, Bahrain, Morocco, Saudi Arabia, Syria and Tunisia*).
- Article (16), concerning marriage and the family (*Reservations were made by Jordan, Algeria, Bahrain, Saudi Arabia, Syria, Iraq, Kuwait, Morocco, Tunisia, Lebanon, Libya and Egypt. Yemen, the Comoros Islands, Djibouti and Mauritania did not have reservations*).
- Article (29), concerning arbitration between state parties (*Reservations were made by Iraq, Kuwait, Morocco, Tunisia, Lebanon, Egypt and Yemen, with the exception of the Comoros Islands, Djibouti, Mauritania, Jordan and Libya*).

The majority of Arab state parties to the CEDAW have not yet developed effective agencies for implementation, neither have they made necessary amendments to their laws and regulations to recognize its principles. To that extent, no distinction can be noted between the legal status of women in Arab states that ratified the convention and those that did not.

Implementation and the Letter of the Law

As discussed, state parties to the CEDAW are required to present periodic reports on the progress of implementation of the convention at least every four years to a special CEDAW Committee. The committee consists of twenty-three male and female members who are nominated by their states to serve on a personal basis for a period of four years. To date, Algeria, Egypt, Iraq, Jordan, Lebanon, Morocco, and Yemen have submitted reports for evaluation. The Kingdom of Bahrain, Saudi Arabia, and Syria are currently in the process of preparing reports. The newly formed Iraqi government has revisited the issue of implementation and are reevaluating CEDAW's agreement with the new constitution. The present debate in Iraq on the primacy

of international conventions over national legislation is critical because it opens the possibility that agreements like the CEDAW could become the legal basis for protecting women's rights in Iraq, where women have lost many rights in recent decades.

While the new Iraqi constitution stresses gender equality, it identifies *Shari'a* as a basis for the constitution, legislation, and national laws. Iraq's multisectarianism complicates matters as religious authority for each citizen is invested in his or her sect and each sect dictates the status of its male and female members. Ultimately, sect-based gender roles can contradict the principle of equality among citizens.

The CEDAW Committee has agreed that prevailing patriarchal attitudes and stereotypical perceptions of the role of women in the family and in society—as well as the presence of multiple sect-based legislative authorities within a given state (such as in Lebanon and present-day Iraq)—limit the full and effective implementation of CEDAW. It has urged the accelerated recall of reservations, in particular Articles 2 and 16. It has also emphasized the need for legislative amendments to sanction perpetrators of honor killings and to eliminate violence against women.

The Situation of Arab Women

Recent decades have witnessed marked progress in recognizing women's rights around the world with the increase in the number of women's organizations, networks, and movements. The influence of these NGOs on local, national, and international policies is growing.

Due to successive social, economic, and political changes, the situation of Arab women has improved markedly since the 1970s. Awareness of the importance of women's participation in the development process on various scales has risen. And women's health conditions have improved, as evidenced by health indicators such as life expectancy and maternal and infant mortality rates. This improvement is linked to enhanced health services, a higher standard of education, family planning, and a relatively higher family income due to the higher participation of women in the labor market.

In Arab societies, traditions, values, rules, and religious beliefs constitute the single most important cultural framework in which Arab women can participate and engage in the development process—with the family being the central institution in Arab societies and women, as wives, sisters, mothers, and child-bearers, at the center of this institution. The four World Conferences on Women—held in New Mexico (1975), Copenhagen (1980), Nairobi (1985), and Beijing (1995), as well as the follow-up to these conferences—have been effective in raising awareness by Arab leaders of the importance of women's participation in the development process. They also brought attention to the considerable impact of wars and other domestic, social, and economic upheavals that have left a mark on the region and the status of Arab women during the past several decades.

Most detrimental to the situation of Arab women, however, are misinterpretations of religious doctrine and an insistence upon customs and traditions that are unfair to women, such as honor killings, female circumcision, domestic violence, adolescent and pre-adolescent marriage, marriages characterized by inequalities in age, and kin marriages.

Advancements in Laws, Legislation, and Political Participation

A number of states have reviewed and issued new laws and created new state institutions to address women's issues. Morocco has passed a set of family codes; Egypt has established a family court; Egypt and Jordan have modernized their civil laws, including granting women the right to initiate divorce; and Egypt and Tunisia have passed citizenship laws. New employment laws have been passed, and a social security law has been amended in favor of women. A number of Arab states have also developed safety networks and penal codes to address the problem of honor crimes.

However, women are still plagued by poverty, illiteracy, and an inability to enter traditionally male-dominated fields. The participation of women in leadership positions and in public and political life is still below the required standard. The large gap between the text of the law and its application needs to be narrowed in order to encourage women's full participation in the development process. This requires a

reconsideration of these laws to keep pace with rapid changes taking place on the social, political, and economic fronts, including structural adaptation, privatization, restructuring, and other economic policies affecting women.

Advancements in State Agencies

In recent years, national agencies have been created for women, including ministries in eight states (Algeria, Djibouti, Iraq, Mauritania, Morocco, Palestine, Somalia, and Tunisia), as well as national councils and agencies to coordinate between various ministries in issues concerning women. These institutions are designed to monitor and follow-up on the implementation of international strategies, plans, programs, and international conventions concerning women and propose amendments and draft laws to limit discrimination against women.

Advancements in Education

Main accomplishments in the area of education include the implementation of the compulsory education law for boys and girls at the elementary level. In the Gulf States, the gap has grown in favor of women at the university level. Gaps are expected to shrink when today's elementary-level students reach adulthood.

Advancements in Health

Indicators of women's general health have improved in most Arab states from 1995-2005, with higher life expectancy rates³, lower overall fertility rates,⁴ and lower maternal and infant mortality rates.

³ From 2000-2005, life expectancy of Arab women at birth rose to 68, 7 years more than two decades before. Average life expectancy of women ranges from 70-88 years in the Gulf states, Lebanon Jordan, and the West Bank. Life expectancy of women ranges from 45-50 in the least developed states in the region, Djibouti, Mauritania, Somalia, Sudan, and Yemen, due to deficiencies in health services and limited funds budgeted for health, particularly in rural and remote areas. Egypt registered the highest relative improvement in average life expectancy of women which rose from 52 years in the 1970s to 70 from 2000-2005.

⁴ Presently, fertility rates for each childbearing female in Arab states vary between a low of 2.1 and 2.2 in Tunisia and Lebanon and a high of 7.6 in Yemen. From 1995-2000 and 2000-2005, the overall fertility rate continued a moderate decline in Arab states, as the average fertility rate decreased from 4.6 to 4.2. ESCWA statistics

In the past two decades, Arab governments have adopted policies to improve health measures and taken serious steps toward their implementation with assistance from international agencies and United Nations specialized agencies such as UNICEF and WHO. They have also conducted health education campaigns on the national and regional levels. For example, Gulf Cooperation Council states and others have directed public spending toward preventive and therapeutic services and the acquisition of medical equipment and advanced technologies. This has resulted in a marked improvement of public health, in general, and state health services. Further, the number of hospitals has risen.

Advancements in Employment

Worldwide, women represent a smaller share of the workforce. The employment gap between women and men is much larger in the Arab world than elsewhere. Nevertheless, the percentage of women aged 15 and above in the workforce increased from 18 to 29% in the period of 1995-2003. However, women's rates of participation vary greatly from one state to another and from one region to another. The percentage of participation in the Arab world has ranged between an average of 30-35% in Egypt, Lebanon, Morocco, Sudan, and Tunisia and a low of 13-18% in the Gulf states. Comoros, Djibouti, and Somalia represent the highest rates of participation at 43%, which is equivalent to most industrialized states. Notably, approximately 80% of women in these states work in the agricultural sector.

In general, rapidly changing economic conditions in the region have challenged prevailing social traditions and led to the wider participation of women in the labor market. Marginal improvements were most widely felt in the areas of business, white-collar employment, the nonofficial sector, and, to a lesser extent, the industrial sector. However, to date, there are no women fire-fighters.

indicate that this decrease will continue to 3.6 from 2005-2010. Fertility rates in Yemen and Somalia have not changed over the last twenty years. Followers of family planning are on the rise thanks to education campaigns organized by governments with the assistance of NGOs and specialized agencies. As a result, the number of women with the ability and training to make family-planning decisions have has increased.

There are few policewomen, female law enforcement officers, and Supreme Court judges. Few successes were noted in the number of women entering traditionally male-dominated fields or in exiting traditional woman's work. In the Kingdom of Saudi Arabia, for example, measures have been taken to provide women with more opportunities to join the Chambers of Commerce and work in the private sector, including banking and the commercial sector—although they work in seclusion from men.

2005 statistics show that approximately 70% of Arab women work in the service sector, 20% in agriculture, and approximately 10% in the industrial sector. Notably, in the Arab region as a whole, economically active women do not represent more than 20% of women aged 15 and older. Naturally, these figures vary from one state to another.

What are the major obstacles facing advancement of the status and enabling of Arab women?

Despite the progress achieved in recent years, women are still at a disadvantage in terms of obtaining resources and participating in leadership, public affairs, and development as a whole. Women still face considerable difficulties and obstacles, among them the conflict between work and family.

Limited Political Participation

Restrictions on women's full participation in political life have deep cultural, economic, and legal origins. In most states, women only gained the right to vote recently—Egypt in 1956, Iraq in 1980, Jordan in 1974, Kuwait in 2005, Lebanon in 1952, Syria in 1949, Southern Yemen in 1967, and Northern Yemen in 1970. In most Gulf States, women were granted voting rights only in the early 1990s. As a result, women are less experienced in all areas of political life.

Women's presence in official political institutions worldwide remains low, at a mere 5-10% of the official political leadership posts. Women occupy only 12% of parliamentary seats, although the percentage increased in Arab states from 3% to 7% between 1995 and 2005. Presently, women occupy 6% of ministerial posts globally, and most ministries led by women are restricted to areas traditionally identified

with women issues such as health, social welfare, development, education, and women's affairs. In 52 states of 190 in the world, women have never occupied a ministerial post.

The number of female ministers in Arab states has risen to forty-three, including: six in the current Iraqi government; five in Algeria; four in the Sultanate of Oman; three each in Jordan, Palestine, and Tunisia; two in Bahrain, Djibouti, Egypt, Morocco, and Syria; and one in Kuwait, Lebanon, Libya, Mauritania, Qatar, Somalia, Sudan, the United Arab Emirates and Yemen. Some of these ministers are representing women for the first time in their offices.

The government of Iraq originally set a quota of 25% parliamentary seats for women in Iraq. Iraqi women were elected to 31% of seats on the National Assembly in the January 2005 elections, the highest percentage in the Arab World. Iraqi women also played an important role in drafting the new constitution. In Yemen, women represent 10-15% of parliamentary seats, Jordan has six female parliamentarians, and Morocco has thirty. Studies on the under-representation of women are underway in Egypt, Lebanon, and other states. Such concerns were instrumental in raising representation of women in Arab parliaments from 3% in 1995 to more than 7% in 2005. Notably, Arab women hold 6% of seats on *Shoura* councils.

Although aggravated conditions in the region have created fertile ground for women's political involvement, few Arab women have participated in international peace negotiations. However, matters have started to change. The international community recognized for the first time the important role played by women in preventing and resolving conflicts when the UN Security Council adopted Resolution 1325 (2000). Most recently, the War in Iraq has pushed several issues to the surface, making women an integral part of the ongoing debate on Arab identity, regional relations, and world politics.

Women's organizations continue to urge women to enter and reform political life from the inside, noting progress achieved by women in Scandinavian states. Moreover, if a reasonable percentage of women enter the political arena—for example, the 30% stipulated by Beijing methodology—women will be able to influence policies and make a substantive difference. This is particularly true of women occupying

public posts who maintain close relations with NGOs and remote grass-roots organizations.

Illiteracy

According to 2005 UN Economic & Social Mission for Western Asia (ESMWA) estimates, approximately half of females in the Arab world are illiterate, compared with 27% of males. However, there are vast statistical differences and discrepancies among Arab states, particularly those experiencing conflict and war such as Palestine, Iraq, and Sudan. Illiteracy rates among females range between 76% in Iraq and 13-18% in Bahrain, Jordan, Kuwait, Lebanon, Qatar, and the United Arab Emirates.. Although, in general, illiteracy rates among women in Arab states have decreased, the gap between women and men is growing. Further, the dropout rate among girls still represents a major problem, especially in rural areas. However, the eradication of illiteracy in females is a main goal of NGOs active in this area.

Unemployment

The detailed and gender-disaggregated data on rural unemployment in Arab states are scarce or unreliable, if available. However, in most states in which data is available, a quick glance at unemployment rates indicates that women suffer unemployment at higher rate than men.

Poverty

There are now multiple poverty indicators; yet, data that is disaggregated by gender is scarce and inaccurate. Nevertheless, it is commonly held that women bear the brunt of poverty much more than men. They more readily fall victim to destitution and unemployment by virtue of being illiterate and unskilled, particularly those in rural areas. In states experiencing war and armed conflict, such as Iraq, Palestine, Somalia, and Sudan, statistics show an increase in the number of women supporting families and a doubling of the number of widows. External conditions also exert an influence on poverty rates among women, including globalization, economic restructuring, public spending, and cutbacks in services provided to the middle and lower classes. Additionally, statistics generally indicate that women-headed households are poorer than those headed by men.

Most Arab governments fail to give adequate priority to women's issues. They do not allocate necessary human and physical resources for implementing women's programs and carrying out related tasks. This situation is worsened by poor coordination and follow-up, and the lack of data disaggregated by gender.

Conclusion

The position of Arab women cannot be linked to a single variable. It reflects several interactive and interrelated variables with political, legal, social, economic, and cultural dimensions. It is impossible to estimate and measure these interrelated variables to develop an index for Arab women that could reflect both the uniqueness of the Arab region and its progress in achieving Beijing methodology, CEDAW, the Millennium Goals, and the Beirut Declaration on Arab Women.

Now that democratic practices have grown in the Arab region, as in the Gulf states, Iraq and Lebanon, national agencies for women have been established, political participation has improved, and governments have declared their intention to establish partnerships with NGOs. Yet, the most critical factor in achieving equality must be stressed, namely the political will and commitment of policymakers to implement CEDAW. If followed, its directives should lead to full rights for women and the elimination of discrimination against women to enable their full participation in the ongoing development process.

The problems facing women in the world today are essentially the same from state to state and are only different in their degree. It is important for women to share their experiences and expertise in order to determine what is best in a given context and avoid blind imitation that could harm efforts. However, we must remember that wars are a series of small battles that are fought in stages. This is the case for the fight for women's rights in the Arab world. Therefore, progress must be measured over the long term because, despite the achievements, promoting the status of women and achieving full and complete equality with men are still a long way away and the journey will be difficult.

Recommendations and Practical Proposals to Enable Women to Achieve Equality

(A) For governments

- To assert the political will and commitment needed to eliminate discrimination against women.
- To develop strategies, plans, and programs that enable women to monitor priorities and changes in public policies on the national level.
- To increase the budgets and human resources allocated to national policies, programs, and agencies concerned with women.
- To allocate a quota to women in the parliament as a temporary measure to overcome imbalances and bridge the gap between the representation of men and women.
- To grant women voting rights and the right to run for national legislative councils and local governments and to secure a minimum 30% representation rate.
- To amend legislation and laws concerned with women to eliminate discrimination and create a special mechanism for monitoring the gap between the letter of the law and its application.
- To review the laws and legislations of parties and election systems to encourage the role of women.
- To establish a database that disaggregates information according to gender and adopt the principle of transparency in the publication and dissemination of such information.
- To establish monitoring and early-warning systems to analyze social phenomena related to the status of women and girls.

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- To integrate women's issues into public policy and use pro-active political discourse in their favor.
- To involve women in all peace negotiations and security issues, asserting the role of women in reinforcing the concepts of peace and dialogue.
- To reinforce or establish agencies concerned with women's issues, including national commissions on women and allocate to them the necessary budget and human and financial resources to operate effectively.
- To recall the reservations concerning CEDAW articles and ratify the Optional Protocol.
- To remove from schoolbooks and curricula representations and ideas that discriminate against women and promote negative gender stereotypes.
- To implement measures to encourage women's participation in public life, enabling them to reconcile familial and professional obligations.
- To build relationships with NGOs and support their role in the development process.

(B) For NGOs

- To organize training courses for women that teach leadership skills and create an active female bloc for protecting and advancing women's rights.
- To work to change attitudes in society that embed women's inferiority and communicate the importance of gender equality.
- To develop and implement an educational program that teaches civics and educates women, men and children on the important role played by women in society.

- To exert pressure on governments to implement CEDAW and to recall any reservations.
- To organize programs that provide legal consultation and assistance upon request and prepare brochures and publications relevant to women.
- To work to change negative representations of Arab women in Arab and Western media sources.
- To monitor and integrate successful experiences in other states and share experiences to identify best methods.
- To exert pressure on governments to develop educational programs for schools, the media, official institutions, and local agencies to eliminate negative practices and traditions that both contradict the law and hinder the advancement of women.
- To urge women to organize, join political organizations, and make alliances with others who believe in the importance of women's participation in the development process.

(C) For the Arab World

- To encourage the role of the Arab Women's Organization and the Arab Union for Women for the benefit of Arab women.
- To provide necessary assistance by regional and international organizations to national organizations concerned with women's affairs to increase their efficiency.
- To organize and hold workshops to raise awareness of critical women's issues and assist in changing social attitudes about women.
- To organize meetings with representative Arab groups and women's groups to share their experiences and teach women how to reach senior-level posts.

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- To collect and disseminate quantitative and qualitative data on women and men in various areas.

4

Women's Rights in Algeria: Lessons for Iraqi Activists

The Honorable Zoubida Assoul*

Women's status in society and their contribution to public life remain significant concerns at the start of the new millennium. Arab states cannot be the exception to this rule, especially considering the situation facing women in these societies requires greater efforts due to long-prevailing gender discrimination. They can accept these changes, making use of international methods and approaches to ensure development and stability, and expand decision-making powers to new parties, including women, civil society, and the media. Or they can remain on the edge of development, missing opportunities under the pretext of following traditions and customs and, thus, expanding cultural divides and increasing the feeling of misery and frustration among the people of these states—leading to further instability and insecurity. The Gender Justice in Iraq Conference is confirmation that Arab women are pursuing comprehensive development by sharing their experiences and developing new and practical strategies to help Arab women realize their full rights and open new opportunities to them in the future.

In this essay, I will share aspects of the Algerian experience through a

* Former Judge, Legal Advisor, Algeria.

consideration of the rights afforded to women in Algerian domestic legislation. I will identify the most important achievements and success factors, as well as obstacles and difficulties. Finally, I will identify methods for supporting these rights and their future development.

Women's rights in Algerian domestic legislation

At present, Algeria has endorsed all international and regional conventions related to human rights, from the Universal Declaration of Human Rights to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

The Algerian Independence Constitution of 1963, as well as its amendments through 1996, recognize the principle of equality between men and women in rights and duties—without discrimination based on sex, race, or opinion, or any other term or condition whether personal or social. The constitution also makes men and women equal in holding jobs and positions in the state, without any conditions beyond those set by the law. It also guarantees the right of education for all citizens, male and female, by making education compulsory, free of charge, and democratic, with the state regulating the educational system. The constitution also recognizes the right to medical care and the right to work, leisure, protection, security, and sanitation.

The constitution establishes equality in terms of the civil and political rights enjoyed by men and women, including the right to elect officials and run for political office. It also gives women the right to establish and lead political parties and civil organizations.

The codes of the Elections Law and Political Parties Law emphasize equality between men and women, with women able to elect officials and run for office in all elected councils on the local level, as well as in both chambers of the parliament and the presidency. The Political Parties Law gives women the right to establish and lead parties without any restrictions or conditions. Further, the Associations Law gives women the right to establish and run local and national civil society organizations. Finally, the Nationality Law gives women the right to pass on their nationality to their children.

The family is the basic unit in Algerian society and is given special protection by the state and society. All laws and regulations in Algeria were passed in accordance with the constitution, except a number of regulations in Family Law that do not recognize full equality between men and women. However, the latest amendment to Family Law reduced preexisting inequalities with regard to marriage, divorce, and child custody, giving women the same rights to all terms of the marital contract or any contract to follow (including the term of monogamy or work, etc.). It also gives adult women the right to choose representatives to sign their marital contract, with the intention of freeing women from the absolute authority or arbitrary powers of their parents or guardians. The amendment gives women the right to file for divorce for reasons specified under the law, as well as the right to alimony and housing if they retain child custody after the divorce. As for child custody, the mother is a deputy to the father in the event of any deterrents to his assuming the role.

Civil and Commercial Laws guarantee equality between men and women: women can own property, sign contracts, practice commerce, hold loans, and run commercial enterprises. Penal Law and Prison Regulation Law make women fully responsible for criminal actions, thus treating them equally, whether as a witness, a defendant, or a party. One positive difference is that a woman's prison sentence may be delayed if she is pregnant or nursing. Laws also guarantee the protection of women from all forms of violence, including sexual harassment.

Civil Laws recognize gender equality with regard to equal pay, the right to proper work hours, paid maternity leave, and leaves of absence (to raise children or if a spouse is sick or disabled, etc.), as well as the right to a weekly and yearly holiday, social security benefits, medical care, and protection from work-related accidents and illnesses regardless of the nature of the work. These laws also permit the reduction of the retirement age for women and, when applicable, the addition of three years to their employment history in appreciation of time spent in child-rearing (for purposes of pensions, etc.).

Yet, have these rights and laws translated into actual equality in the daily life of Algerian women? Do Algerian women have opportunities

to hold senior-level positions in society to make decisions and effect social change?

Evaluating the situation of Algerian women in light of domestic legislation

Despite the rights secured by domestic legislation, the real situation facing women in their day-to-day lives is still far from equal. Algerian women represent 49.4% of the total population; yet, they remain sorely underrepresented in other vital statistics.

For more than four decades, the state has made significant advances in the area of education, but the legacy of French occupation left a high percentage of women illiterate, especially those now over 50. Further, the rise in terrorism during the last decade has disrupted education, especially in the already unstable and poor rural areas. Nevertheless, 92.1% of school-age girls attended school in the 2005-2006 academic year. This year, female students in all school grades (elementary, preparatory, and secondary) represented 49.63% of students, while male students represented 50.32%.

Yet, women's presence in the labor market in comparison with the large number of female university graduates every year yields disappointing ratios.

Today, women represent only 17.7% of the total workforce. Guardians' or husbands' refusal to allow women to work accounts for 42.6% of women's unemployment. Lack of assistance (*i.e.*, access to nurseries and other social supports) accounts for 18% of unemployment. Finally, the choice not to work accounts for less than 8%.

If we examine the issue of women and labor by sector, we find the following:

Women in Education. In the educational sector, women represent 43% of employees in elementary schools, 45% in preparatory schools, and 33% in secondary schools. This statistic includes teachers, lecturers, and supervisors. However, the number of women holding senior-level

positions in the educational sector on the local and national levels remains weak in comparison with their general presence.

Women in Health Care. Women working in hospitals, university medical centers, and other specialized medical centers represent 60% of the workforce, whether of a medical or paramedical nature. Yet, leading positions, such as heads of departments and hospital management, are held almost exclusively by men.

Women in Justice. Women's presence in the judiciary has never been an issue. Since Algeria's independence, women have entered the judicial field, holding positions as judges and participating at all levels of judicial committees, in significant numbers. In 2005-2006, the number of women judges in Algeria was 1063 out of 3069 (34.57%). This number includes judges in Appellate Councils, Supreme Court Justices and the Council of the State, Algeria's highest judicial body. The number of women holding leading positions remains weak, however, despite the high number of women in the field.

The Supreme Court includes 32 women, of which 6 are department heads. The Council of the State, the highest body in the Administrative Judiciary, is led by a woman and includes 23 women, one of which heads a chamber and another 5 head various departments. Of 211 judges in judicial councils, women heads of councils numbered 3 of 79; women deputy heads of councils numbered 5; and women heads of chambers numbered 60. The remainder serve as chancellors. Of 767 women judges in courts, 28 women were heads of courts, 70 women were investigative judges, and 37 women were assistant public representatives.

Of the 19 members of the Judicial Supreme Council, which is the commission responsible for assignments, promotions, and penalties, 1 woman was elected by the judiciary and 2 were appointed by the President of the Republic.

Women in the Media. Women have shown a strong presence in the field of media in all its forms, including print, radio, and visual medias. Women account for 56% of journalists in both the public and private sectors.

Women in Elected Councils. Algerian women have a long history of participation in political life. Their political contributions were felt during the War of Liberation and in independent Algeria's first parliament, where they represented 5% of the total number of members (10 out of 197). Once the multi-party system was introduced, women gained a presence in several political parties and leading committees, but in relatively low numbers. Today women do lead some political parties, and women ran for presidential office in the 1995 and 2004 elections.

Women remain underrepresented in elected councils. Only 147 of 3279 women who ran for local office were elected. And only 913 of 2684 women who ran for provincial office were elected. In the two-chamber parliament, women did not represent more than 4%, despite that the number of women running for office has doubled in recent years.

Women's representation in Arab parliaments remains the lowest in the world at 5%—compared with 39% in northern Europe, 15% in America, 15% in Asia, and 12% in sub-Saharan Africa.

Women & Non-Governmental Organizations (NGOs). Since the Associations Law was passed in 1990, the number of local and national associations and societies in Algeria has reached 50,000. NGOs working in the field of women rights total 449, including 21 national associations. But this number remains low in comparison to the needs and demands of women in society, especially considering the effects of terrorism on the social fabric during the past ten years, which has created new social behaviors.

Success Factors:

- The principle of equality in rights and duties between men and women in the Algerian constitution and laws is one of the basic factors that helped women reach the comparatively better position they are in today.
- Free, compulsory, and democratic education is a key factor in helping women attend schools, colleges, and other institutions

of higher learning in large numbers after Algeria's independence.

- Significant numbers of women with a good education and university graduates have entered the business world, especially in the fields of education, health, and the judiciary.
- Women's awareness that participation in public life is related to their ability to participate in traditionally male-dominated fields and their decision to enter those fields, as well as their determination to be treated as citizens with full rights.

Obstacles & Difficulties:

- The essential and enduring wealth of each nation is its human resources—if the citizen is in good condition, then the society is in good condition. Independent Algeria has given priority to building establishments over building human capacity; yet, no society is able to progress and build without investing in its citizens civically, culturally, and educationally.
- Algeria has lacked the social and organizational structures necessary for women to participate in public affairs, from the neighborhood to the national level.
- The educational system has put women at a lower level and instituted systems and traditions different from those of the War of Liberation, in which women fully participated without preconditions or asking permission from any group(s) or individual(s).
- Failures of public works and neighborhood works, which care for women and families and serve to link society and public authorities, has led to the expansion and intensification of negative social behaviors.
- Lack of creativity in public works and the failure to make it more active in addressing critical social needs, especially those of women and children.

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- The media, in all of its forms, does not discuss women's issues or open discussions for solutions to these issues.
- Lack of coordination among public agencies and the failure to distribute roles strategically, with both short- and long-term goals.
- Lack of census data and field studies relating to women's issues and the lack of new investigative methods based on polls.
- Failing to use demographics to highlight areas of particular need, especially in rural and suburban areas.
- Lack of basic organizations supporting women's work and participation in economic development.
- Partisan structures embroiled with power struggles.
- Talking about equality between men and women, rather than demanding equality of opportunity.
- Women's lack of awareness of their rights as protected by national and international legislation.
- Lack of financial and technical abilities of NGOs working on women's issues.
- Use of cultural heritage, customs, traditions, and religion as pretexts to exclude women from participating fully in public life.

Strategies for Supporting Women's Rights

Considerable progress has been made in advancing women's rights, but global changes continue to bring new demands and challenges for societies and Arab states. States cannot isolate themselves from developments outside their borders. As a whole, global changes have compelled most Arab states to follow voluntary policies that

contributed to the promotion, advancement, and participation of women in public life.

Complicating matters, most Arab states assumed large infrastructure liabilities upon gaining independence, in efforts to build state institutions and assume control over state affairs. Algeria is no different. However, it chose to invest in its state establishments over its citizenry. As a result, the state became the people's guardian, thinking and deciding on their behalf and providing a minimum level of service. As a result, citizens do not think critically or strive to lead, thus reducing the spirit of initiation and creativity.

The phenomenon of terrorism has added to these problems. By failing to engage citizens psychologically, socially, and culturally to limit its effects, mass killings have now led to the appearance of violent behaviors in society, especially among young people.

Laws are not enough to treat all of these social problems. We need practical solutions implemented by a variety of state and non-state actors, each with their own specialization: women, government, civil society, political parties, civil associations, and the media, etc.

This can be achieved by:

- Recognizing the principle of equality in political, civil, and social rights in all national laws and regulations;
- Strict application of the law;
- Revising laws and regulations that discriminate against women, amending these laws, or annulling them, depending on the case;
- Convincing women to take responsibility for demanding their rights;
- Urging women to participate more actively in public life by striving for senior-level positions, beginning with local groups, which are considered the foundations of change;

- Opening all kinds of media, especially mass media, to discussions of social phenomena, such as: violence, women's rights as human rights, civics, respect for public property, respect for the opinions of others, and extremism;
- Removing religion from political considerations and opening fatwa (religious decree) establishments for women;
- Increasing guardians' awareness of their responsibility for the actions and behaviors of children that affect other citizens' freedoms and/or properties;
- Reviewing the educational system in compliance with Human Rights International norms and principles and removing stereotypes that insult women and put them at a disadvantage to men, as well as supporting the values of tolerance;
- Giving priority to neighborhood activities at all levels of social class;
- Building women's leadership skills in running societies, defending women's rights, public speaking, gathering supporters, and organizing societies' work to guarantee the maximum support possible;
- Moving women from demanding their rights to being a force for change at all levels in order to create a women's lobby;
- Using human resources strategically to guarantee the fair distribution of roles and specializations;
- Conducting practical studies of verbal and physical violence among different social classes and correcting them, especially violations against women;
- Creating a women issues databank for studies, field research, census, recommendations, and suggestions for all classes of women and creating a strategy for its uses;
- Women's entering the marketplace, in all of its professional specializations;

- Giving priority to rural women, thus building local basic structures that can identify women's needs and ambitions and provide help to them and renew respect for traditional works and merge them into the national economy;
- Women adopting rational and demagogue- and courtesy-free speech;
- Expanding social facilities, such as civic and sports centers for young people in order to remove from violence and intolerance;
- Opening religious studies and clerical degrees to women in order to take religion away from ignorance and political manipulation;
- Preparing a book on women's rights to increase public awareness and knowledge;
- Convincing political parties to take social problems into account and find solutions for them, especially education and creativity, thus removing them from the base political power struggle;
- Employing the quota system in elections and adopting it in Elections Law and Parties Law as an interim phase to regain balance in public establishments.

Part Three

**Gender Justice in Iraq Conference,
Amman, Jordan,
November 11-14, 2005**

A

Final Communiqué

The Gender Justice in Iraq conference was held from 11-14 November/Second Tishreen 2005 at the Crowne Plaza Hotel in Amman, Jordan, as part of a project implemented by the Chicago-based International Human Rights Law Institute of DePaul University College of Law and sponsored by the National Democratic Institute for International Affairs in Washington, D.C., United States of America.

The conference took place in the immediate wake of the terrorist attacks on three Amman hotels on 9 November/Second Tishreen. Almost all of the confirmed participants defied security concerns to travel to Amman, insisting on attending to support their Iraqi sisters in developing their plans for defending gender justice in Iraq.

The project's goal is to bring together women's rights experts from Iraq and the other Arab countries to originate recommendations on constitutional amendments, legislation, and policies needed to promote gender justice in Iraq. In pursuit of this goal, the project will publish a book in Arabic and Kurdish for distribution in Iraq and the Arab world that contains papers written by participants and project conclusions and recommendations.

The project participants included current and former ministers and parliamentarians and women's rights representatives from non-governmental organizations and the academic field. The group includes eighteen women's rights experts from Iraq and twelve from other Arab countries. The group included the Iraqi participants, as well as Jordanian, Syrian, Egyptian, Lebanese, Palestinian, Kuwaiti,

Moroccan, Algerian, Libyan and Yemeni experts. Dr. Badria Al Awadhi, director of the Arab Regional Center for Environmental Law and professor of law at Kuwait University, and Mrs. Feyha Zein Al Abideen, a member of Iraq's Transitional National Assembly, served as general rapporteurs.

The agenda covered the situation of women's rights in Iraq and the Arab world, best practices for women's rights advocacy in the Arab world, and the Iraqi constitution. In working groups, participants developed recommendations on priority constitutional amendments, legislation, and policies for Iraq, as well as strategies for securing needed reforms. Plans were also made for public relations efforts including press conferences and lobbying throughout Iraq to publicize the conference's outcome and push for implementation of its recommendations. In a session focused on networking, participants formed a coalition called Women for Peace and Equality Network (WEPEN) that decided to meet again in the coming April/Neesan in Iraq under the auspices of the International Human Rights Law Institute, and planned an implementation program for the conference.

The participants were divided into five working groups and discussed the amendments to the Iraqi constitution concerning women's issues: international status and Islamic shari'ah in the constitution and domestic law; general rights; economic rights; personal and social rights; personal safety and freedom from violence.

The participants agreed to the following recommendations:

1. Working to encourage women parliamentarians to introduce legislative initiatives concerning women's issues.
2. Affirming the complete participation of women in the decision-making process and the appointment of women in leadership positions in the state.
3. Support of women in running for leadership positions in political parties.
4. Gender mainstreaming in public policies and the planning and programs for the management of natural resources and sustainable development.

5. Establishing public or charitable organizations for protection of women from all violations of human rights.
6. Establishing a data bank dealing with women's issues and a gender-specific database.
7. State support through adequate measures for all organizations and associations, specifically, those civil society organizations concerned with raising awareness among women and the public of women's rights.
8. Approving the enforcement of the implementation of ratified international instruments and treaties, particularly the Convention on the Elimination of All Forms of Discrimination Against Women, through the harmonizing of national legislation and the establishment of necessary instruments for their implementation.
9. Working to change academic curricula and educational programs to achieve the principle of equality.
10. Laying the foundation for justice through policies that enforce the complete equality between men and women in laws and regulations and on all levels.
11. Abolishing of all restrictions that hinder the freedom of movement of women whether domestically or internationally.
12. Encouraging active initiative (ijtihad) in Islamic jurisprudence in concert with the objectives of shari'ah to ensure justice, equality and reparations for damages.
13. Revising sentencing legislation regarding honor crimes so that the punishment for such crimes is equivalent to that of normal murder.
14. Repealing or amending national legislation that supports discrimination against women.
15. Continuing application of the personal status law number 188 of 1958 and its operative amendments and repeal of provision 39 of the Iraqi constitution.
16. Guaranteeing full participation of women in all fields of the labor market and complete involvement in the national economy and encouraging the support of the state in the

establishment of financing funds for small-scale production projects and the granting of micro-finance loans for women, including rural women.

17. Establishing coordination and communications networks among Arab, regional and international non-governmental feminist organizations.
18. All references in the constitution to the masculine shall be deemed to include the feminine and the masculine.
19. Amending the provision to ensure the membership of male and female legal experts in the Supreme Federal Court.

At the conclusion of this successful conference, the participants agreed upon the conference recommendations and they unanimously agreed to widely disseminate these recommendations to state and quasi-state agencies, non-governmental organizations and to all other related agencies. The participants also pledged to form an internet network to support the work they will carry out in Iraq.

Written in Amman 14 November/Second Tishreen 2005.

B

List of Participants by Country of Origin

The Hon. Zoubida Assoul

Vice President of the Arab
Women Lawyers Network;
Legal Consultant; former
Magistrate; Former Member of
Parliament, Algiers
(Algeria)

**Dr. Ayat Mohammad Abul-
Futtouh**

Managing Director, Ibn
Khaldun Center for
Development Studies, Cairo
(Egypt)

Attorney Shirin Amedee

Member, Central Committee
of the Kurdistan Democratic
Party; General Secretary,
Kurdish Women's Union;
Member, Legal Syndicate; Co-
founder, Women's Rights
Defense Movement; Super-
visor, Medical Center for
Women and Children;
Supervisor, Gender Issues for
Duhok Governorate, Irbil
(Iraq)

Dr. Fawzia Al Attia

Professor of Sociology, Baghdad
University, Baghdad
(Iraq)

M.P. Suha Al Azzawi

Member, Constitutional
Committee, Transitional National
Assembly; President, Semiramis
Association for Defending
Women's Rights, Baghdad
(Iraq)

**M.P. Faeza Jabbar M.
Babakhan**

Member, Transitional National
Assembly, Baghdad
(Iraq)

Ms. Sawsan Al Barrak

Cofounder and Executive
Manager, Al Forat Cultural Center
for Women in Babylon, Hilla
(Iraq)

M.P. Faihaa Z. Al Beyati

Member, Transitional National
Assembly, Baghdad
(Iraq)

Dr. Maysoon Al Damluji
Senior Deputy Minister of
Culture; Chair, Iraqi
Independent Women's Group,
Baghdad
(Iraq)

M.P. Amal Al Kashif Ghitta
Center for Strategic Studies,
Islamic Foundation for
Women
and Children; Former
Member, National Assembly,
Baghdad
(Iraq)

**H.E. Minister Sorya Y. Isho
(Pascale Warda)**
President, Assyrian Women's
Union; Former Minister of
Displacement and Migration;
Baghdad
(Iraq)

M.P. Galawezh Jabbari
Member of Kirkuk Council;
Former Member of
Parliament; Former Head of
Human Rights Bureau, Kirkuk
(Iraq)

Ms. Khanim Rahim Latif
Director, Organization for
Combating Violence against
Women (ASUDA),
Suleymaniya
(Iraq)

**Attorney Azhar Abdel
Muhsin**
Lawyer, Baghdad
(Iraq)

Dr. Iman Abidaljabar Muslet
President, Rafidain Women's
Coalition; Dentist, Baghdad
(Iraq)

Ms. Sabria Mahdi Naama
Secretary General, Democratic
Iraqi Women's Organization,
Baghdad
(Iraq)

H.E. Minister Narmin Othman
Minister of Environment and
Acting Minister of Human Rights,
Former State Minister for
Women's Affairs, Baghdad
(Iraq)

**M.P. Maryam Talib Mageed Al
Rayes**
Reporter of the Constitutional
Committee, Transitional National
Assembly, Baghdad
(Iraq)

Dr. Maha Hamid Al Sakban
Pediatric Consultant, Al Diwaniya
Health Office; Director, Women
Human Rights Center, Al Diwaniya
(Iraq)

Name withheld, Baghdad
(Iraq)

H.E. Minister Asma Khader
Former Minister of State;
Government Spokesperson,
Amman
(Jordan)

Prof. Badria Al Awadhi

Professor of Law and Former
Dean, Kuwait University;
Director, Arab Regional
Center for Environmental
Law, Kuwait City
(Kuwait)

Dr. Fatima Sbaity Kassem

Former Director, ESCWA
Centre for Women, United
Nations Economic and Social
Commission for Western Asia
(ESCWA), Beirut
(Lebanon)

Ms. Azza El Horr Mroue

Vice President, Lebanese
Women's Rights League,
Beirut
(Lebanon)

H.E. Amb. Najat Al Hajjaji

Ambassador; Permanent
Representative of the Libyan
Arab Jamahiriya to the United
Nations, Geneva
(Libya)

Attorney Fouzia Assouli

President, Democratic League
for Women's Rights (LDDF);
Legal Consultant, Casablanca
(Morocco)

**Ms. Hanan Abdelrahman
Rabbani**

Human Rights Officer, Human
Rights Office, United Nations
Assistance Mission for Iraq,
Amman
(Palestine)

H.E. Houda Houmsi Ajlani

Member of Parliament and Former
Chair of Foreign Policy
Committee; Member of French-
Syrian Friendship Committee;
Engineer, Damascus
(Syria)

** The following experts could not
attend the Gender Justice in Iraq
Conference, but submitted papers
for publication:*

Attorney Azza Soliman

Lawyer and Director, Egyptian
Center for Women's Legal Aid,
Cairo
(Egypt)

Professor Farida Bennani

Professor of Islamic Law, Qadi
Ayad University, Marrakesh
(Morocco)

Ms. Rana Ghanem

Political Director, Sisters Arab
Forum for Human Rights, Sana'a
(Yemen)

C

Conference Photos



1. Conference Proceedings for the Gender Justice in Iraq Conference in Amman, Jordan



2. Iraqi Women's Panel.



3. Working groups.



4. Sabria Mahdi Nama, Secretary General, Democratic Iraqi Women's Organization, Baghdad, speaking during a discussion session.