

# Sexual and Gender-Based Violence in Iraq 2003-2018

## A Mapping Report

May 2020



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**Photo Credits:** Ali Dab Dab, Iraqi woman in Tahrir Square during the protests in Iraq, October 2019.

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## About

### Iraqi Al-Amal Association

Iraqi Al-Amal Association (IAA) is a non-partisan, non-sectarian and non-profit organisation of volunteers actively engaged in projects for the benefit and wellbeing of the Iraqi population regardless of race, gender and political or religious affiliation. It aims to combat all forms of violence and discrimination and to prompt citizenship, social justice, equality, transparency, and accountability. IAA has extensive experience working in the field of civil society field in Iraq since 1992. IAA is registered in Iraq and the Kurdistan Region, and derives its strength from excellent working relations with Iraqi governmental bodies combined with a strong local network and community support, and it has Consultative Status membership at the ECOSOC. IAA works in three main fields: women rights, human rights, and peace education.

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Impunity Watch (IW) is a non-profit human rights organisation dedicated to ending impunity for severe violations of human rights, especially in countries emerging from a violent past. We analyse, advocate, and partner to help local communities seek accountability for gross human rights abuses and for systemic injustice. In our work, we adopt a bottom-up, participatory, and context-sensitive approach, and support victims and survivors in exercising their rights. Our work is legal, social, and political. IW began its work in 2004 in response to calls from Guatemalan human rights groups for greater support in their struggle for redress after the internal armed conflict of 1960-1996. It was registered as an independent foundation in 2008 in the Netherlands. Today, IW works in a wide range of countries and has offices in Burundi, Guatemala, and The Netherlands.

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This report is an output of a multi-year project entitled «Engendering the Transition to Peace and Security in Iraq», implemented by Al-Amal Association, Impunity Watch and PAX, with the financial support of the Dutch Ministry of Foreign Affairs. The three organisations will be using this report, drafted by Al-Amal Association, as an advocacy tool with international policymakers to promote the participation of women survivors of sexual and gender-based violence in transitional justice processes.

## Foreword

This report is part of a broader project entitled «Engendering the transition to Peace and Security in Iraq», implemented by, Iraqi Al-Amal Association, Impunity Watch and PAX, and funded by the Dutch Ministry of Foreign Affairs. The three organisations have worked with Iraqi civil society activists and academics on mapping patterns of sexual and gender-based violence (SGBV) and abuse in Iraq and identifying their root causes.

Over the course of many years of conflict, violence and political instability, Iraqi women who faced SGBV were excluded from post-conflict efforts aimed at dealing with past human rights violations. None of the government-led transitional justice or reconciliation efforts have systematically focused on the impact of SGBV or shed light on the types of human rights violations faced by women specifically. As a result, the experiences of women have remained largely invisible to the public, which in turn has impeded the emergence of a common narrative regarding Iraqi women's long history of abuse and violence. In fact, each group<sup>1</sup> has stuck to its own narrative, which has only contributed to exacerbating divisions and hindering the acknowledgement of what the 'other' has faced or suffered.

This mapping report seeks to start addressing this reality and expose SGBV faced by Iraqi women between 2003 until 2018. The mapping process was initiated through a training organised by Impunity Watch and Iraqi Al-Amal Association in Beirut in 2018. The training focused specifically on mapping SGBV in Iraq to allow Iraqi women researchers to develop, implement, and evaluate effective transformative strategies to carry out applied research on the topic. The participants of this training subsequently led the data collection efforts based on what they had learned. Focus groups were also organised as part of the data collection process, and aided in the identification of root causes of SGBV as well as the formulation of the recommendations contained in this report. The report also includes several testimonies of Iraqi women, which were collected by women activists who were trained by Impunity Watch, Iraqi Al-Amal Association, and PAX to help them conduct interviews and collect data from SGBV survivors in an ethical and sensitive manner.

<sup>1</sup>- Different ethnic, religious and political groups.

## List of Acronyms

<b>CEDAW</b>	Convention on the Elimination of all Forms of Discrimination Against Women
<b>CSOs</b>	Civil Society Organisations
<b>CRSV</b>	Conflict Related Sexual Violence
<b>FGM</b>	Female Genital Mutilation
<b>HRW</b>	Human Rights Watch
<b>IAA</b>	Iraqi Al-Amal Association
<b>ICC</b>	International Criminal Court
<b>ICRC</b>	International Committee of the Red Cross
<b>ISIS</b>	Islamic State of Iraq and the Levant / Islamic State of Iraq and Syria
<b>IW</b>	Impunity Watch
<b>KDP</b>	Kurdistan Democratic Party
<b>KRG</b>	Kurdistan Regional Government
<b>OHCHR</b>	Office of the High Commissioner for Human Rights
<b>SGBV</b>	Sexual and Gender-Based Violence
<b>SRSG</b>	Special Representative of the Secretary-General
<b>SRSG/SVC</b>	Special Representative of the Secretary-General on Sexual Violence in Conflict
<b>UN</b>	United Nations
<b>UNAMI</b>	United Nations Assistance Mission for Iraq
<b>UNDP</b>	United Nations Development Programme
<b>UNHCR</b>	United Nations High Commissioner for Refugees
<b>UNICEF</b>	United Nations Children's Fund
<b>USD</b>	US Dollars
<b>WHO</b>	World Health Organization

## Executive Summary

The plight of women and girls in Iraq predates the U.S-led invasion in 2003. Sexual and gender-based violence (SGBV) is strongly linked to the widespread use of violence within the country, be it in the state's relationship with society or in relationships within society itself. Lawlessness and recurring armed conflicts have undermined the mechanisms in place for protecting women, which were already inadequate and unable to protect them in peacetime, amid a widespread 'victim-blaming' mentality. Conflicts in Iraq not only fostered an enabling environment for violence, but also saw various parties use SGBV against women and girls as a means for imposing political agendas and a justification for the destruction of their adversaries. Discrimination, a lack of gender equality and equity, and the stereotyping of gender roles in relation to family, society, and the law, are among the main factors that fuel the existence and persistence of sexual violence, both in peacetime and in war.

Although Iraq is bound by international conventions that require the state to set laws and regulations that protect women and girls from SGBV and support victims to ensure justice and accountability, Iraqi law does not criminalise widely recognised forms of sexual violence as defined in the Report of the Fourth World Conference on Women (1995 Beijing Conference) and by the World Health Organization (WHO), nor does it criminalise conflict-related sexual violence (CRSV) as defined in the report of the UN Secretary-General. Impunity for perpetrators remains widespread under legal systems that do not punish the most serious sexual and gender based crimes. Instead, under Iraqi law, several of these crimes may be legally justified on religious or social grounds.

In the clear absence of gender-sensitive data, particularly data dealing with taboo issues such as sexual violence, this mapping report seeks to address this gap and shed light on the general contexts in which SGBV crimes and violations are increasingly perpetrated. The mapping exercise also seeks to identify the most common patterns (and locations) in which these violations are committed and their root causes, as well as the general profiles of perpetrators. The mapping exercise covers three periods: 2003-2008, 2008-2014, and 2014-2018, respectively. The report is primarily based on information gathered from published reports, and supplemented by the direct testimonies obtained during interviews with survivors, as well as researchers and activists working alongside them.

Prior to 2003, sexual and gender-based crimes committed by the Ba'ath regime were rampant, including the rape of women in prison, the use of torture and other forms of inhumane or degrading treatment of women to target husbands and/or male relatives, and tolerance or disregard for thousands of crimes committed under the pretext of 'honour'.

Between 2008 and 2014, despite a relative improvement of the security situation in Iraq, the mapping exercise revealed a rise in the number of honour killings. Cases of human trafficking, incest, and rape were often kept secret or did not reach the court. Women also suffered sexual violence at the hands of security forces and other official entities, as well as non-state armed groups that emerged during this particular period. Girls irrespective of their ages, were not spared from SGBV: the mapping exercise included cases of female genital mutilation (FGM; also known as female circumcision), virginity testing, rape, murder, and child marriage.



From 2014 to 2018, women and girls in Iraq faced some of the most heinous forms of sexual violence and suffered disproportionately as a result of the armed conflicts that broke out during this period. The Islamic State of Iraq and the Levant (ISIS) committed systematic large-scale crimes, including abduction, rape, and sexual enslavement and exploitations of women and girls, especially Yazidi women. Thousands of women and girls were forced to marry ISIS fighters. The continuation of the conflict led to widespread sexual violence crimes and violations in other governorates, including a significant increase in honour killings and rapes. Throughout this period, human trafficking for the purpose of sexual exploitation became more organised. The rape and murder of girls increased, and numerous child marriages were documented.

Some forms of SGBV against women and girls that had, in general, been previously tolerated in Iraqi society - such as FGM - have been criminalised in recent years. The heinous crimes committed by ISIS against women and girls in the vast areas under the group's occupation raised international attention and were widely denounced. This led to increased documentation of sexual violence against women and girls, as evidenced by the monitoring of sexual violence crimes and violations in the reports of local organisations and local media outlets and news agencies. Nevertheless, efforts by Iraqi government institutions to document and categorise SGBV are wanting.

The mapping exercise showed that SGBV was committed against women and girls of all ages, but mostly against minors, and irrespective of their economic or social status. Sexual violence was especially prevalent in places such as prisons, detention facilities, camps, as well as on the street and in remote areas. Domestic violence, often confined to private spheres was equally widespread.

One of the main reason for the persistence of SGBV is the reluctance of victims and survivors to come forward and report these types of violations. Victims face stigma, blame, and discrimination by their families, society, and those working in referral system institutions, which further undermines access to justice, reparations, and protection. Those working in referral system institutions (e.g. the police, judicial personnel, health professionals, social workers etc.) lack the required understanding of the complex aspects of sexual violence in conflict and post-conflict contexts.

## Recommendations

### Recommendations to the Iraqi Government

#### *Government legislation, policies and procedures*

- 1- Accede to the Rome Statute of the International Criminal Court (ICC) to ensure the prosecution of sexual and gender based crimes that were committed against women, girls, and children and that may amount to war crimes, crimes against humanity, and/or genocide.
- 2- Ratify the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women and withdrawing reservations to Article 2(f) and (g) and Article 16 of the Convention.
- 3- Review laws or legislation that enshrine inequality and/or discrimination based on gender, including: Penal Code No. 111 (1969), particularly those articles relating to rape, abduction, and “honour killings”; Criminal Procedure Code No. 23 (1971); the Law on Combatting Prostitution; as well as decisions by the former regime that legitimise violence and discrimination against women and decisions violating Iraq’s obligations under international law.
- 4- Expedite the enactment of the Domestic Violence Law to ensure that international norms to reduce domestic violence crimes are met.
- 5- Establish a national mechanism for women’s affairs that enjoys independence as per Article 108 of the Constitution and comprises the three branches of power, the Kurdistan Region’s High Council of Women Affairs, civil society organisations (CSOs), women’s studies centres, and media institutions.
- 6- Adopt an action plan to implement the provisions of the Joint Communique of the Republic of Iraq and the United Nations on Prevention and Response to Conflict-Related Sexual Violence, by taking specific and explicit steps and providing the resources needed to achieve them.
- 7- Establish a victim and witness protection programme within Iraqi courts to encourage women to file complaints on CRSV, particularly those committed by powerful and influential actors; and ensure the victims’ full and effective participation in all penal procedures.
- 8- Develop a comprehensive gender-sensitive security sector reform policy and a strict code of conduct based on respect for human rights, as well as providing follow-up, oversight, and accountability for its enforcement.
- 9- Provide human and financial resources and political support for the implementation of the updated Strategy to Combat Violence Against Women (2018-2030).

#### *Procedures and measures to protect and build capacities*

- 10- Enhance victims’ and survivors’ access to the needed medical, psychological, social, and financial services by adopting a referral system and taking the necessary measures to activate and disseminate it, as well as simplifying the procedures required to access legal and psychosocial services, and ensuring that victims have access to educational opportunities, economic empowerment, and rehabilitation.

**11-** Simplify procedures for registering marriages, divorces, and births in all regions, and facilitate related administrative procedures and reducing bureaucracy, especially for women subjected to sexual violence by members of ISIS or other perpetrators.

**12-** Ensure training of medical staff, psychologists, schoolteachers, and caregivers on human rights and the special needs of children subjected or exposed to SGBV, especially children born to ISIS fathers, as well as female victims of rape and other forms of SGBV.

**13-** Provide safe havens and safe spaces in all governorates and guarantee medical services, legal support, and rehabilitation and integration programmes for women and girls who are victims of violence, and of SGBV specifically. Provide funding for these services and monitor their quality on a regular basis.

### ***Preventive procedures and measures***

**14-** Establish specialised training programmes for judges, public prosecutors, and law enforcement officers on international human rights law, international humanitarian law, (international) criminal law, forensic methodology, investigation of sexual and gender based crimes, and ways to provide the needed protection to victims and witnesses of SGBV and human trafficking.

**15-** Develop specialised training programmes for judges, public prosecutors, and law enforcement officers on the concept of gender and integrating these programmes in law enforcement mechanisms and procedures for dealing with women, girls, and children subjected to sexual violence. Develop policies to ensure they can access justice and reducing impunity for perpetrators of violence and trafficking in women.

**16-** Amend school curricula and adopt an educational policy that is open to the principles of human rights, women's rights, and gender sensitivity. Organise awareness and gender sensitivity campaigns in the media and academic and educational institutions and among religious and community leaders to combat violence and extremism against women and girls. Combat harmful practices and stereotypes that spread during conflicts and displacement waves, especially early and/or forced marriage, temporary marriage, and so-called 'honour crimes'.

### **Recommendations to Iraqi CSOs**

**1-** Facilitate the establishment of support networks within local communities for women subjected to SGBV and other forms of violence, to reinforce awareness and communication, and to facilitate access to professional and social training and public support services.

**2-** Provide training to judicial officials, security personnel, and police officers on ways to deal SGBV cases and ensure that security personnel and police officers deal act in accordance with human rights standards.

**3-** Work with judicial, legislative, and security institutions to review policies, strategies, and legal provisions that mitigate penalties and uphold impunity for perpetrators.

**4-** Maintain and expand efforts to document SGBV and other forms of violence against women.

## **Recommendations to the International Community**

- 1-** Encourage Iraq to hold accountable those involved in flagrant violations of international law, including by ratifying to the Rome Statute of the ICC as well as other international human rights treaties that Iraq has not yet ratified.
- 2-** Support long-term programmes that empower CSOs, build their capacity to monitor and document sexual violence crimes during and after conflicts, and strengthen their psychological, health, social, and legal victim support services.
- 3-** Support the efforts of CSOs to combat harmful practices and change stereotypes faced by women, especially in the context of armed conflicts and displacement.

*“The persistence of sexual violence against women and girls in Iraq is due to the continued violation of their basic human rights. To confront sexual violence, the state must protect and guarantee women’s basic rights.”*

Yazidi survivor, early 30s - Bashiqa, Mosul, March 2019

Since ancient times, SGBV against women and girls has been associated with conflict. These crimes have always coincided with other forms of violence perpetrated against society; committed by all parties involved in conflicts with total impunity. These types of violations were commonly seen as a natural phenomenon in conflict. However, it is only over the past 20 years or so that international courts and tribunals have started prosecuting - and prioritising - CRSV, which has seen a great development in the law and an increased recognition that rape and other forms of sexual violence are not simply a ‘side effect’ of war.

This fact is evidenced by the crimes and violations that women and girls in Iraq currently face as a result of the armed conflicts that followed Iraq’s occupation by coalition forces in 2003. The lawlessness that resulted from the collapse of the rule of law and the emergence of lawless armed groups affected all aspects of women’s lives. As a result, women became more vulnerable to various forms of violence, particularly sexual violence. Cases of abduction, rape, and sexual assault increased significantly and led many women and girls to stop going to work or school. In addition, various parties used sexual violence against women and girls in Iraq to impose political agendas and a justification for the destruction of opponents.

SGBV against women continued and increased after ISIS took control of Mosul on 9 June 2014. In mid-August 2014, Ms. Zainab Bangura, Special Representative of the UN Secretary General on Sexual Violence in Conflict (SRSG/SVC), expressed deep concern about the barbaric atrocities committed by extremist ISIS groups against women and girls, including abduction, rape, and sexual enslavement.

In peacetime, as in wartime, women and girls in Iraq face various forms of sexual violence, which is still taboo, as in many societies. Most sexual crimes remain undeclared and do not reach the courts. Outside the context of armed conflict, SGBV crimes arise in enabling environments where structural equality in the social, political, and cultural systems is absent. The crimes and violations committed against women in Iraq are closely linked to the marginalisation and discrimination formally and informally enshrined by laws and regulations. During armed conflicts, the abuse of women and girls only increases and intensifies, given society’s growing tolerance of violence as a legitimate means for expressing political and economic interests, addressing (perceived or actual) historical grievances, and defending religious and/or ethnic identities radically and with arms.

In general, Iraqi women and girls still face structural difficulties in pursuing their rights. Victims of sexual violence, in particular, face numerous challenges in reporting and dealing with the police and judicial and health institutions. This is due to the absence of laws, institutions, and professionals who are prepared or trained to deal with cases of violence and support victims. This is even more difficult in some societies that still consider some sexual violence practices against women to be part of their traditional/cultural heritage, justifying and reproducing them with rationales protected by laws and hegemonic political discourses.

In Iraq, gender-sensitive data is scarce or nearly non-existent. There is an acute lack of data on SGBV and a deficiency in its systematic collection. Surveys and documentation of cases of sexual violence are often conducted as part of reports on violence against women in all its forms, in which sexual violence is usually allocated a separate chapter or paragraph. Surveys on SGBV are not conducted on a regular basis, despite their key role in understanding the magnitude and forms of these crimes with a view to addressing and preventing them and supporting their victims. Hence the present report, which was written by a team from the Iraqi Al-Amal Association, in collaboration with Impunity Watch. The mapping exercise covers SGBV crimes and violations in conflict situations in Iraq between 2003 and 2018.

This report is an attempt to address the acute lack of data and analyses in this regard and to shed light on the general contexts in which SGBV crimes and violations are increasingly perpetrated. The mapping exercise also seeks to identify the most common patterns and locations of these crimes and the general features of perpetrators and review the root causes.

The report also identifies ways to deal with the legacy of these violations, in terms of developing more SGBV-responsive policies, ensuring access to justice, reforming and harmonising national laws, punishing perpetrators, compensating victims, and preventing the reoccurrence of these violations in the future. The report further aims to highlight the nature of SGBV as a military tactic and an instrument of terrorism, war, violence, and abuse by state and non-state armed groups in conflict situations.

In turn, the report does not aim to establish the evidentiary standards required to bring these crimes to court, as many of the SGBV crimes contained in the report still need thorough investigations and require the amendment and harmonisation of national law to reach the courts. The data contained in this report relates exclusively to reported and published incidents and cannot be considered as an exhaustive account of the widespread nature of SGBV cases in Iraq, which are grossly under reported. The report maps a very small part of the acts that were committed and reported, given the sensitivity of sexual violence disclosure and the shame and fear of stigma among victims, mainly due to the often-unsympathetic reaction of the victim's family, society, and the state. In some cases, disclosure or reporting has led to the punishment of the victim rather than the perpetrator, including by death. The SGBV cases contained in this report are considered crimes and violations under international human rights law, international humanitarian law, and certain articles of the Iraqi law.

The report relied on several methodological hypotheses in mapping SGBV crimes and violations against women and girls in Iraq. First, that the patterns of violence against women and girls are not related to conflict and lawlessness, but increase exponentially during these situations. Second, that violence against women and girls is not limited to a specific factor (e.g. age, marital status, class, level of education or religion), although it generally affects girls more often than older women. Third, that kinship does not protect women and girls from the violence they suffer in the private sphere (e.g. family) or in the public sphere (e.g. public places, state institutions etc.), according to several indicators.

The report is not only concerned with mapping violations and crimes. It is equally concerned with the general contexts in which these crimes and violations occur and how these contribute to their persistence. The report gives an idea of the scale of violations and the detection of patterns. The aim of this report is thus to collect basic data on incidents and violations that have been revealed. The violations recorded herein are not expected to reach the courts; the aim is to document their occurrence. Such documentation may be a preliminary step toward the development of transitional justice mechanisms, which are not restricted to judicial mechanisms alone, but encompass other elements, such as truth seeking, reparations, and institutional reform to avoid the recurrence. It also represents a step toward identifying challenges and assessing needs in order to develop plans for appropriate interventions, with the aim of addressing the legacy of gross violations of the rights of women and girls who suffered from SGBV.<sup>2</sup>

The development of the report took one year, from June 2018 to June 2019. The mapping exercise was carried out in two phases: the first was the collection of data (on sexual violence crimes and violations) documented in published reports of the UN and international and national organisations and in the media. This was followed by the input of data into an Excel sheet and its classification by: date and place of the violation, information about the victim (age, marital status, etc.), perpetrator(s), and nature of the violation. It should be noted that access to some official data and statistics from the High Judicial Council and some police stations in Baghdad was very difficult, as we will discuss below.

### Sources and Stages of Data Collection

The present report is based primarily on data contained in published reports, and supplemented by direct testimonies obtained in interviews with survivors of SGBV, as well as with researchers and activists working alongside them. All necessary precautions were taken to protect the personal information and the identities of the women during their testimonies based on the do no harm principle.

The data collected was sorted into three timeframes, as follows: 2003-2008, 2008-2014, and 2014-2018. This temporal sorting took into account some of the general political and security contexts in Iraq during this period. The data is supported by trusted sources, and the research team sought to document the violations through more than one source. Much of the data not supported by trusted sources was disregarded altogether.

<sup>2</sup> For a similar approach and methodology, see United Nations Office of the High Commissioner for Human Rights (2010) Report of the Mapping Exercise documenting the most serious violations of human rights and international humanitarian law committed within the territory of the Democratic Republic of the Congo between March 1993 and June 2003, available at: <https://www.ohchr.org/EN/Countries/AfricaRegion/Pages/RDCProjetMapping.aspx> (last accessed 11 November 2019)

The second stage of data collection was based on focus group discussions that tackled the root causes of various patterns of (sexual and gender based) violence against women and girls and discussed possible solutions and mechanisms to curb those patterns and practices. In March 2019, 10 focus group discussions among activists were held: two in each of the Governorates of Baghdad, Basra, Salah ad-Din, and Kirkuk; and two targeting female Yazidi activists in the region of Bashiqa in the Ninawa Governorate. The first group discussions addressed the key question of the root causes of SGBV in Iraq and the conditions and contexts that help SGBV persist. The second discussed solutions: what methods and mechanisms can curb SGBV violations and crimes?

The academic levels of the participants varied (secondary school, bachelor, master, and Ph.D.). The group discussions in Kirkuk were attended by members of the provincial council, with a total attendance of 72 participants: 63 women and 9 men. The participants' ages ranged from 20 to 60. In addition to the focus group discussions, six interviews were conducted with female activists and researchers working with women survivors.

## **Data Collection Challenges**

Documenting cases of sexual violence in the present report was a difficult task for the drafting team as sexual violence is considered a taboo subject. The data collection team had great difficulty obtaining official data and statistics, as getting official approvals from government agencies, such as the High Judicial Council, the Ministry of Interior, and the Ministry of Health, requires complex routine procedures. This was further compounded by the lack of gender-specific data. For instance, the Planning and Statistics Department of the High Judicial Council does not have disaggregated and readily available data according to the jurisprudence of each legal article. The statistics currently available on the Council's official website are limited to the numbers of marriages and divorces. The procedures to access official statistics require approval, which is not guaranteed if the requested data is considered sensitive, which is the case with SGBV-related data. After approval, the Planning and Statistics Department asks the courts to send the requested data to the Department - a procedure that sometimes takes months and may thus be futile for research papers or reports that should be drafted within a certain timeframe, as was the case with the present report. Moreover, the Family Protection Unit of the Ministry of Interior refused to share official statistics on SGBV cases, upon the Ministry's instructions to the unit not to share any information or data or talk to the media about violence against women, under the pretext of the sensitivity of such information.

The data collection team also encountered difficulties given the unavailability of published studies, reports, or statistics documenting SGBV crimes, particularly for the period prior to 2003. In the years that followed, some reports by international and local organisations were able to document some SGBV cases, but these organisations refrained from sharing data and information with the research team to protect confidential information and guarantee the survivors' safety. Therefore, this report does not provide a holistic mapping of all SGBV crimes and practices between 2003 and 2018, but rather presents the data available in published reports, in addition to documenting some cases through personal interviews.

## **Definitions**

The Report of the Fourth World Conference on Women (1995 Beijing Conference) defines sexual violence as one of the main types of 'violence against women', which comprises "any act of



gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life”.<sup>3</sup> The conference also identified some practices of sexual violence in the family context, including marital rape and FGM. As for the public context, sexual violence practices include rape, sexual assault, harassment, sexual exploitation, trafficking and forced prostitution.<sup>4</sup> The World Health Organization (WHO) defines sexual violence as “any sexual act, attempt to obtain a sexual act, unwanted sexual comments or advances, or acts to traffic, or otherwise directed, against a person’s sexuality using coercion, by any person regardless of their relationship to the victim, in any setting. Sexual violence includes rape, which is defined as physically forced or otherwise coerced penetration - even if slight - of the vulva or anus, using a penis, other body parts or an object”.<sup>5</sup>

According to the UN Secretary-General, the term ‘conflict-related sexual violence’ encompasses “rape, sexual slavery, forced prostitution, forced pregnancy, forced abortion, enforced sterilization, forced marriage, and any other form of sexual violence of comparable gravity perpetrated against women, men, girls or boys that is directly or indirectly linked to a conflict”.<sup>6</sup> The term also encompasses trafficking of persons in situations of armed conflict for the purpose of sexual violence and/or exploitation.<sup>7</sup> According to the report, the requisite link to the conflict may be evident in, among others, the profile of the perpetrators (often affiliated with a state or non-state armed group, including a terrorist entity or network), the profile of the victims (who is frequently an actual or perceived member of a persecuted political, ethnic, or religious minority, or targeted on the basis of actual or perceived sexual orientation and gender identity), and the climate of impunity, which is commonly associated with state collapse.<sup>8</sup>

The Trial Chamber of the International Criminal Tribunal for Rwanda defined sexual violence as “any act of a sexual nature committed against a person under coercion”.<sup>9</sup> The term ‘act of a sexual nature’ is very broad and leaves room for interpretation; it could range from penetration to comment having a sexual connotations.<sup>10</sup> Moreover, the term ‘coercion’, must be understood broadly, and thus not limited to the use of physical force alone, but also “threats, intimidation, extortion, and other forms of duress which prey on fear or desperation”.<sup>11</sup>

The ICC’s definition of rape is considered the most accurate, as it considers an act to be rape if: “1. the perpetrator invaded the body of a person by conduct resulting in penetration, however slight, of any part of the body of the victim or of the perpetrator with a sexual organ, or of the anal or genital opening of the victim with any object or any other part of the body. 2. The invasion was committed by force, or by threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power, against such person or another

3- United Nations (1996) Report of the Fourth World Conference on Women, Beijing, 4-15 September 1995, UN Doc. A/CONF.177/20/Rev.1., para. 113, available at: <https://undocs.org/pdf?symbol=en/A/CONF.177/20/REV.1> (last accessed 12 November 2019). Hereafter: Beijing Conference Report (1995).

4- Ibid.

5- Krug, E.G. et al. (eds) (2002) World Report On Violence And Health, Geneva: World Health Organization, p. 149, available at: [https://www.who.int/violence\\_injury\\_prevention/violence/world\\_report/en/](https://www.who.int/violence_injury_prevention/violence/world_report/en/) (last accessed 11 November 2019). Hereafter: Krug et al. (2002).

6- United Nations (2017) Report of the Secretary-General on conflict-related sexual violence, UN Doc. S/2017/249, 15 April 2017, para. 2, available at: <https://www.un.org/sexualviolenceinconflict/wp-content/uploads/report/s-2017-249/SG-Annual-Report-spread-2016.pdf> (last accessed 11 November 2019).

7- Ibid.

8- Ibid.

9- International Criminal Tribunal for Rwanda, Prosecutor v. Jean-Paul Akayesu, Case No. ICTR-96-4, Judgment (Trial Chamber), 2 September 1998, para. 688. Hereafter: ICTR, Akayesu.

10- Gaggioli, G. (2014) Sexual violence in armed conflicts : A violation of international humanitarian law and human rights law, International Review of the Red Cross, 96 (894): 503-538, at 506, available at: <https://www.icrc.org/international-review/article/sexual-violence-armed-conflicts-violation-international-humanitarian> (last accessed 12 November 2019).

11- ICTR, Akayesu, *supra* note 9, para. 688.

person, or by taking advantage of a coercive environment, or the invasion was committed against a person incapable of giving genuine consent".<sup>12</sup>

The 1995 Beijing Conference also mentioned violence and human rights violations against women in situations of armed conflict, in particular murder, systematic rapes, sexual slavery, and forced pregnancy.<sup>13</sup> It is important to note that the Iraqi law does not account for these concepts and definitions under its current formulation.

The present report relies on the definition provided by the WHO, which identifies a wide range of acts of sexual violence that can take place in different circumstances and settings, including, for example: rape by strangers; rape within marriage or dating relationships<sup>14</sup>; systematic rape during armed conflicts; unwanted sexual advances or sexual harassment, including demanding sex in return for favours; sexual abuse of children; forced marriage or cohabitation, including forced marriage of children; forced abortion; forced prostitution or trafficking for the purpose of sexual exploitation; and violent acts against the sexual integrity of women, including female genital mutilation.<sup>15</sup>

<sup>12</sup>- See, International Criminal Court (2011) Elements of Crimes, available at: <https://www.icc-cpi.int/resource-library/Documents/ElementsOfCrimesEng.pdf> (last accessed 11 November 2019). See e.g. Art. 8(2)(b)(xxii)-1.

<sup>13</sup>- Beijing Conference Report (1995), *supra* note 3, para. 114.

<sup>14</sup>- In the Iraqi context, rape or other forms of forced sexual activity by or between family members (incest) is also widely reported.

<sup>15</sup>- Krug et al. (2002), *supra* note 5, pp. 149-150.

### The Formation of the Modern State and Gender Role Changes Before and After 2003

Iraq is located in the Middle East, characterised by regional and sectarian conflicts. Since the founding of the Iraqi state in 1921, royal, military, and dictatorial regimes and governments have successively ruled Iraq. After the overthrow of the monarchy in 1958 and the Ba'ath Party's rise to power in 1968, Iraq lost political and security stability, due to totalitarian rule, the Ba'ath Party's control of power, and the prohibition of all the activities of opposition parties.

In 1970, the Ba'ath Party issued a new constitution that guaranteed some equal rights for Iraqi women. Then in 1978, the party made several changes to Personal Status laws regarding custody of children, polygamy, divorce, and inheritance. These reforms reflected the party's efforts to modernise Iraqi society and replace loyalty to the family and tribal community with loyalty to the government and the ruling (Ba'ath) party. Between 1980 and 1988, when men went to war during the Iraq-Iran war, the Iraqi Government encouraged women to engage in the workforce in large numbers. As a result, women held important managerial positions that had been previously dominated by men and were able to practice all disciplines. During that period, women constituted 46 per cent of the workforce in the education sector; 29 per cent of doctors, 46 per cent of dentists, and 70 per cent of pharmacists; as well as 16 per cent of factory workers. In 1986, Iraq ratified the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). Nonetheless, the Iraqi Government expressed reservations on some articles of the convention. These reservations are still used to justify the continued implementation of discriminatory national laws against women and girls, under the pretext of their harmony with *fiqh* [Islamic jurisprudence] interpretations of the holy texts (Qur'an and hadiths).

After Iraq's occupation of Kuwait in 1990, the UN Security Council passed a series of resolutions against Iraq. Sanctions included a comprehensive economic embargo that lasted 13 years (until 2003). The 1991 Gulf War, as well as the Iraqi Army withdrawal from Kuwait, subsequently destroyed Iraq's economy. The resulting deterioration of economic, civil, and political conditions, as well as the infrastructure of state institutions, hindered the progress made in the situation of women and girls. The political circumstances further contributed to this decline. As such, to ensure the support of conservative and tribal forces for the Ba'ath regime, which had lost control and was on the verge of collapsing, the Saddam regime adopted a series of legal actions, policies, and amendments that reflect tribal and traditional orientations. The scope of honour crimes expanded dramatically, after allowing reduced prison sentences of less than one year and prohibiting the appointment of women in judicial positions. The economic sanctions imposed on Iraq also had a disproportionately negative impact on women and girls compared to men. In parallel with the severe economic decline, the government adopted special policies to exclude women from government departments and the workforce more generally in order to give room for men to work. This resulted in women returning to traditional roles and widened the gender gap in school enrolment, which in turn increased illiteracy rates among females, as families with limited resources chose to send boys instead of girls to school.

What happened in 2003 marked a milestone in Iraq's modern history, as a new cycle of structural violence began at the national and international level. The decision to invade Iraq and the excessive use of force were not the best solutions to the problems that the U.S.-led coalition countries considered to be a threat to international peace and security. The use of violence to approach the

Iraqi issue cannot be separated from the prevalence of violence in the dominant mindset and in dealing with women and girls in general.

After 2003, the state-building process - and the administration of state institutions - was centred around components, quotas, and class. Among the reasons that fuelled the conflicts were: (i) the dissolution of the military and security institutions<sup>16</sup> and their reestablishment on sectarian and tribal bases; (ii) the lack of a national vision for the transitional justice concept in dealing with the dictatorship's human rights violations and genocide; (iii) the emergence of practices of exclusion and marginalisation; and (iv) the widespread financial and administrative corruption in all state institutions, amid the growing influence of armed groups and the escalating mobilisation campaigns and sectarian incitement. These factors also contributed to the spread of extremism and terrorism, which destabilised civil peace, tore apart the social fabric, and caused the deterioration of human rights in Iraq. Women were among the most affected.

After Iraq's occupation by the U.S.-led coalition forces and the change of the political system in 2003, armed conflicts escalated and security deteriorated. Women and girls faced various different types of SGBV. The incidence of SGBV within this period was not a question of isolated incidents or accidental response to the excessive use of force by the various parties to the conflict, but an integral – and intentional – part of the conflict. SGBV is a constant pattern within armed conflict and displacement. It is used as a tool to impose political agendas, destroy and demoralise adversaries, and as a deliberate genocidal strategy.

Women's bodies were seen as symbols of the cultural identity of societies: humiliating and subjugating them is a humiliation and subjugation of these societies. However, the experiences of women in Iraq regarding sexual violence during conflict are not new. They are linked to the history of conflicts and wars that Iraq endured for four decades. Political tyranny, persistent armed conflicts, widespread violence and corruption, and a weak judicial and law enforcement system all contributed to the decline of women's rights. Women became more vulnerable to various forms of physical and sexual violence and harmful practices. During and after armed conflicts, women and girls in Iraq were subjected to various forms of sexual violence, such as rape, gang rape, sexual slavery, honour killings, forced marriage, child marriage, forced pregnancy, and forced prostitution. Women were forced to have sex in order to survive or get food, shelter, or protection. They became a price for settling clan disputes, instead of being an effective element in resolving disputes and negotiations, as per Security Council Resolution 1325.<sup>17</sup>

## **The Legislative Framework in Iraq for Crimes of Sexual and Gender-Based Violence**

The post 2003 reality requires Iraqi legislators to give serious consideration to the amendment of legal texts in order to bring them in line with the political, economic, and social transformations in Iraq, as well as the development of accountability and reparation frameworks, given the clear gap between the existing laws and the changing reality. Iraqi criminal law does not comply with objective international criminal laws or best practices that strike a balance between fair trials and victim protection, nor does it permit the direct application of international criminal law.

<sup>16</sup>- Coalition Provisional Authority (2003) Legitimization of Coalition Provisional Authority order to dissolve Iraqi entities, available at: <http://wiki.dorar-aliraq.net/iraqilaws/law/20675.html> (last accessed 11 November 2019).

<sup>17</sup>- UN Security Council, Security Council Resolution 1325 (2000), UN Doc. S/RES/1325, 31 October 2000, available at: [https://www.un.org/ruleoflaw/files/res\\_1325e.pdf](https://www.un.org/ruleoflaw/files/res_1325e.pdf) (last accessed 14 November 2019). See also, Iraqi Civil Society Solidarity Initiative (2015) Statement of Iraqi Women Network on 15th Anniversary of Issuance of Security Council Resolution 1325, 31 October 2015, available at: <https://www.almubadarairaq.org/?p=2546> (last accessed 11 November 2019).

The Iraqi criminal legislation fails to define, deter, prevent, punish, and fully address SGBV crimes. Moreover, these laws fail to define the crimes committed by ISIS against women and girls in general and Yazidi women in particular.

### ***Iraq's 2005 Constitution***

Iraq's Constitution (2005) affirms the principle of equality in Article 14, however this equality has yet to be translated into concrete measures that guarantee the protection and regulation of the principle of equality enshrined in the Constitution. It further affirms the right to life, security and liberty, equal opportunities, and personal privacy in Articles 15, 16 and 17, respectively. Article 19 guarantees the right to litigation and fair treatment in judicial proceedings, while Article 20 guarantees the right of all Iraqi citizens, men and women, to participate in public affairs and enjoy political rights. Articles 22, 29, 30 and 34 affirm the right to work, the right to the protection of motherhood, childhood and old age, the prohibition of child labour, the prohibition of domestic violence, the right to social and health security, especially to women and children, and the right to education.

### ***Penal Code (Law No. 111) of 1969<sup>18</sup>***

There has been no real change in the Revolutionary Command Council's discriminatory laws and decisions against women, which were enacted during the Ba'ath regime. These laws fail to criminalise discriminatory practices against women in accordance with the international conventions ratified by Iraq. Relevant articles in this regard, include:

**1-** Article 41, under the Chapter 'Exercising a legal right', states that 'there is no crime if the act is committed while exercising a legal right'. This allows the husband to discipline his wife by beating and to discipline his children, as per Article 41(1): 'The punishment of a wife by her husband, the disciplining by parents and teachers of children under their authority, within the limits prescribed by law or custom'. In granting the husband, father, brother, or guardian the right to beat and discipline women, the article considers the latter to be lacking in legal capacity and to need disciplining. This article, which also legalises violence and beatings as a method of raising children, is based on tribal and religious customs, which allows violence under legal cover. The law fails to define the 'right to discipline' and leaves it to the judge's discretion to rule whether the right to discipline exceeded or adhered to the limits of the law. Therefore, the law violates Article 29 (Fourth) of the Constitution, which provides that the state prohibits 'all forms of violence and abuse in the family, school and society'. Iraq does not have a comprehensive law that protects women from domestic violence.

**2-** Article 128(1) provides mitigating excuses: 'Legal excuses either discharge a person from a penalty or reduce that penalty. Excuses are only valid under conditions that are specified by law. Apart from these conditions, the commission of an offence for motives of honour or in response to an unjustified serious provocation by the victim is considered a mitigating excuse'. The law considered motives of honour to be a legal excuse for the commission of a crime. However, it did not define motives of honour and leaves the concept open for interpretation. Article 130 states that the death penalty shall be reduced to one year in prison and life imprisonment shall be reduced to six months in prison. These provisions are discriminatory against women because they reduce the punishment of men who commit crimes against women under their authority if they believe

<sup>18</sup>- Republic of Iraq (1969) Iraqi Penal Code No. 111 of 1969, available at: <http://wiki.dorar-aliraq.net/iraqilaws/law/20706.html> (last accessed 11 November 2019).

they have engaged in an act that affects the family honour. These acts are the product of tribal customs and traditions that are contrary to human rights enshrined in the international conventions ratified by Iraq.

**3-** Article 377: 'An adulterous wife and the man with whom she commits adultery are punished [...] The same penalty applies if the husband commits adultery in the conjugal home'. This article discriminates between men and women in terms of punishment for the same act, as it limits the husband's punishment to adultery in the conjugal home but imposes stricter restrictions on women.

**4-** Article 380 prescribes the penalty of detention for any husband who incites his wife to commit adultery if she does so based on such incitement. This provision only criminalises incitement in the event of adultery, which makes it difficult for the wife to file a complaint against her husband in court while she is convicted of adultery.

**5-** Article 398 provides mitigating excuses to the offender if a valid marriage is concluded between the perpetrator of a crime<sup>19</sup> and the victim, for the purpose of applying the provisions of Articles 130 and 131 on exemptive and mitigating excuses. This article constitutes the most serious violation of women's rights, as it exempts the aggressor once he is married to the victim, in a terrible affront to her dignity, humanity, and human rights. It despicably enshrines outdated customs and traditions to which women always fall victim.

**6-** According to Article 409, any man who, upon finding his wife or female kin in the act of adultery or in bed with her partner, kills one of them or both (i.e. 'honour killing') will face the penalty of imprisonment/detention. This notion is considered taboo for considerations related to social norms and traditions, and provisions allowing mitigated sentences for men who commit the crime to wash away the shame or protect the family's 'honour'. The penalty for such a crime is often a suspended one-year prison sentence. Meanwhile, the law does not provide for similar mitigating circumstances in the event that a woman kills her husband (or male kin) in the aforementioned scenario. Similarly, for the woman, the penalty for adultery is death, life imprisonment or temporary imprisonment, depending on the facts of the case. No such punishment exists for a man engaged in such behaviour.

**7-** Article 427: If the perpetrator of a crime mentioned in the chapter on detention and abduction lawfully marries the victim, any legal proceedings, investigations, or other procedures shall be discontinued. If a sentence has already been passed, it shall be suspended. The legal proceedings or the sentence shall resume - depending on the circumstances - if the marriage ends in a divorce brought about by the husband without legal justification or in a divorce ordered by the court for wrongs or misbehaviour committed by the husband within three years of the suspension of proceedings. This article has the same effects on women as Article 380. The law gives marriage to the victim precedence over the prosecution of the perpetrator. Presently, following the abduction and rape of Yazidi women and girls by ISIS fighters and the conclusion of forced marriages in ISIS customary courts, kidnapping and rape crimes have become classified as 'marriage'. Women who refused to marry were raped, and women who did get married were also raped. This article ignores the victims' fragility, vulnerability, and lack of full free will to prevent or stop violence. As a result, ISIS fighters enjoy impunity for thousands of rapes in coercive contexts in conflict environments. The article does not distinguish between slavery, and detentions and abductions by ISIS, which claimed to own women and controlled and dehumanised them.

<sup>19</sup>- Including the crime of rape if the victim is below the age of 18.

**8-** Article 412: Concerning genital mutilation: The Iraqi Penal Code did not clearly criminalise FGM but considered it an act that causes permanent disability as per Article 412. This phenomenon persists in Kurdistan, which is why the Kurdistan Regional Government (KRG) criminalised it after amending the region's Penal Code. However, government measures to curb this phenomenon, such as increasing health and cultural awareness, are not up to par. For its part, the Iraqi Government has not taken any measures to curb FGM, such as amending this article to clearly and explicitly criminalise it.

**9-** Article 393 prescribes life or temporary imprisonment for any person who commits the crime of rape by having “carnal knowledge” of a female without her consent or committing “buggery” with a male or female without his or her consent. The article does not distinguish between the two offences in terms of punishment. The term “carnal knowledge” used in Article 393 means illicit sexual intercourse. Penetration, complete or partial, is the corpus delicti of the crime of rape. Any other external contact is considered an indecent assault. Therefore, Article 393 does not necessarily mention all forms of sexual penetration as specified under the ICC Rome Statute, such as oral penetration or penetration using objects. Article 393 (1) was amended by virtue of Revolutionary Command Council Decree No. 91 of 21 January 1985, published in the Official Gazette No. 3030 of 28 January 1985, to consider the following as aggravating factors: if the victim is under 18, if the act was committed by a relative of the victim of up to the third degree, if the perpetrator is a public servant, or if the act causes the victim to be pregnant or lose her virginity as a result of rape. The wording currently used in this paragraph, which focuses on examining the victim's hymen, is not aligned or in line with international standards, given the psychological harm suffered by the victim. Article 393 does not mention carnal knowledge without the female's consent in the legitimate context, i.e. marriage, and therefore the Iraqi Penal Code does not criminalize marital rape and considers it one of the husband's rights, despite its psychological harm.

**10-** Articles 396 and 397 deal with sexual assault practices. Article 396 states that: (1) The penalty for any person who sexually assaults a man or woman or attempts to do so without his or her consent and with the use of force, threats, deception or other non-consensual means shall be imprisonment for no more than seven years. (2) If the person against whom the offence is committed is under 18 years of age or if the offender meets the description contained in Article 393(2), the penalty shall be imprisonment for no more than 10 years. Article 397 also prescribed a penalty of imprisonment for any person who assaults a male or female person under 18 years of age without the use of force, threats or deception. If the offender meets the description contained in Article 393(2), the penalty shall be imprisonment for no more than seven years. The law did not define the term ‘sexual assault’, for instance, the meaning of ‘non-consensual’, especially in the added phrase ‘with the use of force, threats, deception or other non-consensual means’. It is not clear whether this covers all coercive circumstances defined in the Rome Statute and customary international law.

**11-** Article 417 prescribes a penalty of imprisonment for no more than one year for any woman who has an abortion.

**12-** Articles 400, 401, and 402 deal with immodest acts, which are punishable by imprisonment for no more than one year or a fine. However, according to the law, a harassment incident requires evidence to incriminate the perpetrator, primarily the presence of witnesses. In addition, the terms used in these articles (immodest acts, indecent advances, assailment in an immodest manner) lack a specific definition. The absence of clear definitions of the elements of crime causes uncertainty and makes them subject to the judge's direct interpretations of the act.

## **Other Iraqi laws**

1- Article 9 of the Iraqi Personal Status Code of 1958 provides: Concerning forced marriage: (1) No relative or other person is entitled to coerce any person, male or female, to marry without their consent. A forced marriage contract is invalid if it has not been consummated. No relative or other person is entitled to prevent a person who is eligible to marry under the provisions of this law from marriage. (2) Any person who violates the provisions of paragraph 1 of this Article shall be punished by imprisonment for no more than three years and/or a fine if he/she is a first-degree relative; otherwise, the penalty shall be imprisonment for no less than three years and no more than 10 years. The provision does not determine the acts considered to be 'forced' marriage, such as threats of violence; or the types of 'consent' considered to be invalid, such as those that come under duress. The law is ambiguous and carries different interpretations of the ways in which women and girls may be systematically or collectively forced to marry ISIS fighters. This loophole poses a particular risk, as Iraqi courts continue to try people for reasons related to membership of or support for terrorist groups, including women and girls whose 'membership or support' is likely to be due to their forced marriage to an ISIS fighter. Based on this approach, women are held liable under Iraqi law. Despite the criminalisation of forced marriage, the government has not made the required efforts to enforce the law, and forced marriage continues to occur in rural areas and areas that were controlled by ISIS. In most cases of forced marriage, the victims are unable to report the marriage for fear of vengeance by their families.

2- Article 8 of the Iraqi Personal Status Code permits the lawful marriage of minors starting from the age of 15.

3- Article 3 of the Criminal Procedures Code No. 23 of 1971 considers complaints in cases such as rape and sexual assault crimes to be personal and a right for the victim.

## **Policies and National Plans**

1- The Iraqi Government has adopted several national strategies for women, including the National Strategy to Combat Violence Against Women (2018-2030),<sup>20</sup> the National Strategy for the Advancement of Women (2014),<sup>21</sup> and the National Action Plan for the Implementation of Security Council Resolution 1325 on Women, Peace and Security,<sup>22</sup> which emphasises the protection of women from SGBV.<sup>23</sup>

2- On 5 March 2018, the Iraqi Government launched the National Plan to implement the Joint Communique on Prevention and Response to Conflict-Related Sexual Violence, which was signed by the Iraqi Government and the SRSB/SVC.<sup>24</sup> In cooperation with the UN, the Iraqi Government and the KRG have formed a national working group on combating sexual violence to develop an action plan geared towards implementing the provisions of this Joint Communique. However, the economic crisis and political problems between the Iraqi Government and the KRG rendered the

20- The Iraqi Government launched the National Strategy to Combat Violence Against Women for 2018-2030 on 26 November 2018, updating the previous strategy for 2013-2017.

21- A National Strategy for the Advancement of Women was issued by the Iraqi Council of Ministers on 1 April 2014.

22- At the time of writing, governmental and civil society organisations were working on updating the National Action Plan (second version).

23- A National Plan for Resolution 1325 was adopted on 1 April 2014. Ministry of State for Women's Affairs - Republic of Iraq (2014), National Action Plan for Security Council Resolution 1325 (Women, security, and peace), adopted on 1 April 2014, available at: <http://iraqnap1325.org/images/PDFfiles/masterplans/nationalActionplan/National-Action-Plan-Arabic-Updated-and-approved-by-Federal-Gov.pdf> (last accessed 13 December 2019).

24- Joint Communique of the Republic of Iraq and the United Nations on Prevention and Response to Conflict-Related Sexual Violence, signed by UN SRSB/SVC, Zainab Hawa Bangura, and Iraqi Minister of Foreign Affairs, Dr. Ibrahim Al-Eshaiker Al-Jaffari, on 23 September 2016, available at: [https://www.un.org/sexualviolenceinconflict/wp-content/uploads/joint-communique/join-communique-of-the-republic-of-iraq-and-the-united-nations-on-prevention-and-response-to-crsv/Joint\\_Communique\\_of\\_the\\_Govt\\_of\\_Iraq\\_and\\_UN\\_9\\_2016\\_ENG.pdf](https://www.un.org/sexualviolenceinconflict/wp-content/uploads/joint-communique/join-communique-of-the-republic-of-iraq-and-the-united-nations-on-prevention-and-response-to-crsv/Joint_Communique_of_the_Govt_of_Iraq_and_UN_9_2016_ENG.pdf) (last accessed 11 November 2019).



mechanisms of joint action ineffective. The lack of funding, national mechanisms,<sup>25</sup> and political will are key reasons for the failure to implement national policies and plans related to women, in addition to weak CSO mechanisms for monitoring, evaluation and follow-up.

### ***International Instruments***

- The 1966 International Covenant on Civil and Political Rights, signed by Iraq in 1969 and ratified in 1971;
- The 1965 International Convention on the Elimination of All Forms of Racial Discrimination, signed by Iraq in 1969 and ratified in 1969 with reservations to Article 22, which imposes the arbitration of the International Court of Justice (i.e. Iraq does not recognise the binding nature of the Court);
- The 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, acceded by Iraq in 2011;<sup>26</sup>
- The 1979 Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), acceded by Iraq in 1986 with reservations to certain articles;<sup>27</sup>
- The 1989 Convention on the Rights of the Child, acceded by Iraq in 1994. The Convention's Optional Protocols on (i) the sale of children, child prostitution, and child pornography, and (ii) the involvement of children in armed conflict were ratified in 2007;<sup>28</sup>
- The 2006 International Convention for the Protection of All Persons from Enforced Disappearance, acceded by Iraq in 2010;
- Iraq ratified all four of the Geneva Conventions in 1956. It also ratified Additional Protocol I to the Geneva Conventions in 2010. It has not ratified Optional Protocol II;
- The 1948 Convention on the Prevention and Punishment of the Crime of Genocide, acceded by Iraq in 1959;
- UN Security Council Resolution 1325 (2000) on Women, Security and Peace, subsequent UN Security Council Resolutions 1820 (2008), 1888 (2009), 1960 (2010), 2016 (2013), 2122 (2013), 2242 (2015); and UN Security Council Resolution 2379 (2017) on the establishment of an international commission to hold ISIS accountable and document its crimes.

In February 2015, based on the decisions of the UN Security Council, the Iraqi General Secretariat of the Council of Ministers announced the establishment of a permanent national commission on international humanitarian law, to ensure the full implementation of international humanitarian law and prevent human rights abuses and violations during armed conflict. The committee, which was established by virtue of Decree No. 10 of 2015, is headed by the General Secretariat of the Council of Ministers, and includes representatives of the Ministries of Defence, Interior, Justice, Human Rights, Migration, Foreign Affairs, and Higher Education and Scientific Research, as well

25- UN Security Council, Security Council Resolution 2367 (2017), UN Doc. S/RES/2367, 14 July 2017, available at: <https://bit.ly/2NcYdY7> (last accessed 11 November 2019). On the renewal of the mandate of the United Nations Assistance Mission in Iraq for one year.

26- None of Iraq's laws on torture define or identify the types of acts that constitute the crime, simply stating that torture is prohibited and restricting this to torture during investigations and the extraction of confessions. Therefore, it is unclear what acts constitute torture under Iraqi law, as a result of which many acts of SGBV are not considered torture.

27- Reservations and declarations made by Iraq regarding CEDAW: "Accepting and acceding to this Convention does not bind the Republic of Iraq to the provisions of Article 2(f) and (g), or Article 9 (1) and (2), or Article 16 of the Convention. The provisions on the latter do not violate the provisions of Islamic law, which grant women rights equal to those of their husbands in order to ensure a fair balance between them. Iraq also expresses reservations about Article 29(1) of this Convention regarding the principle of international arbitration in relation to the interpretation or application of this Convention", available at: <http://hrlibrary.umn.edu/arabic/Iraq-CedawR.html>.

28- Central Statistical Organization Iraq (2013), International Conventions On Human Rights Ratified by Iraq After 2003, available at: <http://cosit.gov.iq/AAS13/HumanrightsStatistics20/hum-rights1-2.htm> (last accessed 2 March 2020).

as the Human Rights Commission and the International Committee of the Red Cross (ICRC) in Iraq as a member with observer status. This measure by the Iraqi Government aims at activating and implementing international humanitarian law to protect victims of armed conflicts in Iraq since 2003. It has been marked by clear tardiness in implementation and the lack of mechanisms. Not only international conventions signed by Iraq at earlier times were characterised by poor implementation, but also the laws enacted after 2003 in relation to international law and national legislation.

In light of the above, under international law, the Iraqi Government must hold accountable the perpetrators of violations of international humanitarian and human rights law, particularly those that amount to war crimes, crimes against humanity, and genocide, such as those committed against the Yazidis by ISIS. The Iraqi law does not criminalise these crimes because it is not in the Penal Code or any other law, because Iraq is not a party to the Rome Statute of 2002.

## Legacy of Sexual Violence Before the Occupation of Iraq in 2003

The Ba'ath regime has been described as one of the most repressive regimes in modern history. During its rule (1963-2003), Iraq lost political and security stability. The regime dominated state institutions, tortured political opponents, and adopted a policy of oppression and collective punishment, which reinforced sectarian and ethnic divisions between the components of the Iraqi society. Saddam's regime was able to manipulate the type of gender relations in its national and political discourses, to maintain its authoritarian power in an environment of international and non-international armed conflicts. It also gave new dimensions to the relationship between war and violence against women. During the Iran-Iraq war (1980-1988), women were turned into 'symbols of the nation' and given new roles in the public sphere, to replace the men who had gone to war. However, this did not entail any change in the prevailing patriarchal mindset or any progressive outlook to advance women's rights. At the same time, women were encouraged to 'produce' more soldiers to replace those killed in combat and the country witnessed an increasing militarisation of society, including the glorification of certain types of patriarchal ideologies, i.e. the fighter defending his country and the Ummah from external threats to Iraqi territory and to their women. In the wake of the 1990 Gulf War and the ensuing popular uprisings against the regime in 1991, Saddam's regime tried to regain control of the situation – and the rebels – by returning to a strict Islamic-tribal moral code of conduct. Women whose actions were considered a violation of this national moral system faced regime violence. The regime even sought to encourage violence against women in order to disperse internal violence and tensions away from the regime.

Below are some of the crimes committed by the Ba'ath regime before 2003:

### ***Rape of Women in Custody in Ba'ath Regime Prisons***

- The Ba'ath regime tortured and treated citizens - especially opponents - in cruel, inhuman and degrading ways. Human rights organisations outside of Iraq received reports of women who suffered torture and severe psychological trauma as a result of being raped while detained in regime prisons. It was also reported that the Ba'ath regime's security forces assaulted opponents' families to force them to confess. A former prisoner reported that she had been repeatedly raped and abused while in detention in regime prisons, and signs of torture were visible on her body.<sup>29</sup>
- An Amnesty International report indicated that under Saddam's regime women faced arrest, rape, and even execution on suspicion of being engaged in political opposition activities or being married or related to men who were opposed to the regime.<sup>30</sup>
- Reports and personal stories of women and men opposed to the Ba'ath regime revealed that sexual violence was an integral part of the horrifying torture system in Iraqi prisons during the Ba'ath regime. Reports documented sexual violence against women more than men. This may be due to the lack of documented cases of sexual violence against men given the social stigma that accompanies men who suffer torture and rape.<sup>31</sup>

<sup>29</sup>- U.S. Department of State (2004) Country Reports on Human Rights Practices for 2003 – Iraq, Bureau of Democracy, Human Rights, and Labor, 25 February 2004, available at: <https://2009-2017.state.gov/j/drl/rls/hrrpt/2003/27928.htm> (last accessed 13 December 2019). See also, U.S. Department of State (2003) Iraqi Women Under Saddam's Regime: A Population Silenced, Fact Sheet, Office of International Women's Issues, 20 March 2003, available at: <https://2001-2009.state.gov/g/wi/rls/18877.htm> (last accessed 11 November 2019). Hereafter: U.S. State Department, Iraqi Women Under Saddam's Regime (2003).

<sup>30</sup>- Amnesty International (2004) Iraq: Violence Against Women Increases Sharply, available at: <https://reliefweb.int/report/iraq/iraq-violence-against-women-increases-sharply> (last accessed 11 November 2019). Hereafter: Amnesty International (2004). See also, U.S. State Department, Iraqi Women Under Saddam's Regime (2003), *ibid*.

<sup>31</sup>- Al-Ali N. (2016) Sexual Violence in Iraq: Challenges for Transnational Feminist Politics, European Journal of Women's Studies 25(1), p. 10, available at: <http://eprints.soas.ac.uk/22128/> (last accessed 11 November 2019).

## ***Ba'ath Regime Legalises the Killing of Women and Girls in the Name of Honour***

• In 2002, the UN Special Rapporteur on violence against women reported 4,000 murders of women in the name of honour between 1991 and 2001.<sup>32</sup> According to a different report, between 1,250 and 5,000 women are estimated to have been killed in the Kurdistan Region alone between 1991 and 2004.<sup>33</sup>

## ***Violence Against Women as a Way to Silence the Opposition***

• It is reported that Saddam Hussein silenced all political opposition and in this respect routinely tortured and killed female dissidents and the female relatives of Iraqi oppositionists and defectors.<sup>34</sup>

• In 2000, units of Fedayeen Saddam (Saddam's Men of Sacrifice), a paramilitary organisation led by Saddam Hussein's eldest son Uday, beheaded more than 200 women from all over Iraq under the pretext of fighting prostitution and threw their severed heads at the doors of their families' homes. These atrocities were carried out in the absence of any proper judicial procedures. It was not proven that the victims were engaged in prostitution; the executions were for political purposes.<sup>35</sup>

• According to numerous reports, Saddam's regime used rape and the sexual assault of women to extract information and forced confessions from detained family members or to intimidate, to intimidate the opposition by sending them videos of the rape of their female relatives, or to blackmail Iraqi men into future cooperation with the regime.<sup>36</sup>

## **No Safe Place: Sexual Violence Against Women and Girls Between 2003 and 2008**

The fall of the regime in 2003 and the collapse of the state monopoly on violence led to the transfer of violent practices to multiple parties vying for power. As such, the violent overthrow of the regime became a catalyst for the spread violence, including SGBV. As often happens in situations of conflict or unrest following the collapse of a tyrannical, violence-monopolising state, from 2003 onwards, it became difficult to distinguish between organised violence and ordinary violence. Iraqis went through dangerous and dire times due to the systematic increase in violence and sectarian killings by occupation forces, non-state armed groups (including terrorist groups), and criminal gangs.

The instances of SGBV listed below illustrate an escalation of violence in all its forms as a result of the chaos and lawlessness that followed the dissolution of security institutions (the army and police) by coalition forces. The types of violations that were previously perpetrated within the former regime's prisons and detention facilities were now being committed in facilities under the control of coalition forces. Killings and kidnappings in public in private spheres also increased; domestic violence cases soared.

<sup>32</sup>- UN Commission on Human Rights (2002) Report of the Special Rapporteur on violence against women, its causes and consequences, Ms. Radhika Coomaraswamy, submitted in accordance with Commission on Human Rights resolution 2001/49: Cultural practices in the family that are violent towards women, UN Doc. E/CN.4/2002/83, 31 January 2002, available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G02/104/28/PDF/G0210428.pdf?OpenElement> (last accessed 11 November 2019). See also, U.S. State Department, *Iraqi Women Under Saddam's Regime* (2003), *supra* note 29.

<sup>33</sup>- Green, P. and Ward, T. (2009) *The Transformation of Violence in Iraq*, *British Journal of Criminology*, 49(5): 1-19, p. 4, available at: [https://www.researchgate.net/publication/228145290\\_The\\_Transformation\\_of\\_Violence\\_in\\_Iraq](https://www.researchgate.net/publication/228145290_The_Transformation_of_Violence_in_Iraq) (last accessed 11 November 2019).

<sup>34</sup>- U.S. State Department, *Iraqi Women Under Saddam's Regime* (2003), *supra* note 29.

<sup>35</sup>- Amnesty International (2001) *Iraq: Systematic Torture of Political Prisoners*, available at: <https://www.amnesty.org/download/Documents/128000/mde140082001en.pdf> (last accessed 11 November 2019).

<sup>36</sup>- U.S. Department of State (2002) *Country Reports on Human Rights Practices for 2001 – Iraq*, Bureau of Democracy, Human Rights, and Labor, 4 March 2002, available at: <https://2009-2017.state.gov/j/drl/rls/hrrpt/2001/nea/8257.htm> (last accessed 11 November 2019). See also, U.S. State Department, *Iraqi Women Under Saddam's Regime* (2003), *supra* note 29. See further, Brown, L. and Romano, D. (2006) *Women in Post-Saddam Iraq: One Step Forward or Two Steps Back?*, *The National Women's Studies Association Journal*, 18(3): 51-70, p. 54, available at: [https://www.researchgate.net/publication/236781740\\_Women\\_in\\_Post-Saddam\\_Iraq\\_One\\_Step\\_Forward\\_or\\_Two\\_Steps\\_Back](https://www.researchgate.net/publication/236781740_Women_in_Post-Saddam_Iraq_One_Step_Forward_or_Two_Steps_Back) (last accessed 11 November 2019).

## ***Abduction, Arrest, and Murder of Women in the Name of Honour in Conjunction with Increased Rape Incidents***

- According to a 2003 Human Rights Watch (HRW) report, it is impossible to ascertain an accurate count of women and girls who suffered sexual violence during this period. For a variety of reasons, many victims did not even seek medical attention, let alone report their cases to the authorities. Paired with the overall breakdown in police record keeping and widespread looting of courts and hospital records, Iraqi authorities have no reliable statistics or figures regarding complaints or charges levelled against perpetrators. According to public perception on the ground, there was a sharp increase in cases of sexual violence since the onset of the conflict. According to credible information on 25 cases of sexual violence and abduction, as well as interviews with four victims of rape and abduction in Baghdad between 27 May and 20 June 2003. Two of the cases involved girls under the age of 16. Police officers (speaking on condition of anonymity) also confirmed a significant increase in reported rape incidents compared to the pre-war period.<sup>37</sup>
- After 2003, instances of gender-based violence, including ‘honour killings’, soared across Iraq. Official authorities in Basra recorded a 70 per cent increase in honour crimes in 2008, with 81 murders reported in late November, only five of which resulted in convictions.<sup>38</sup> In most cases, honour crimes go unreported by family members, who bury the bodies of victims themselves and attribute the deaths to ‘militia violence’ or other causes.<sup>39</sup>
- A survey conducted by the Organization of Women’s Freedom in Iraq said that 400 women were raped in Baghdad between April and August 2003.<sup>40</sup>
- An Amnesty International report also confirmed a significant rise in violence against women after 2003 compared to previous wars. The complete breakdown of the rule of law and the lack of security pose serious threats to people, especially girls and women, who live in constant fear of harassment, beatings, abduction, rape, or murder. The report documented the abduction and rape of the young engineer Asmaa in the Governorate of Baghdad. Asmaa was abducted while shopping with her mother, sister and a relative when six armed men forced her into a car and drove her to a farm outside the city. There, the young woman was raped more than once. The gunmen then threw Asmaa from the car on the side of the road in her town. The report expressed concern about the growing lack of security and other effects of the conflict and their role in the increase of domestic violence.<sup>41</sup>
- A 2005 study conducted by the Ministry of State for Women’s Affairs said that nearly 400 women were raped since the fall of Saddam’s regime, and more than half of these victims were killed by their families in the name of honour.<sup>42</sup> The increase in the cases of rape and murder of victims proves that women are not covered by legal and moral protection.

37- Human Rights Watch (2003) *Climate of Fear: Sexual Violence and Abduction of Women and Girls in Baghdad*, p. 3, available at: <https://www.hrw.org/reports/2003/iraq0703/index.htm> (last accessed 11 November 2019). Hereafter: Human Rights Watch (2003).

38- Sarham, A. (2008) *Hitmen charge \$100 a victim as Basra honour killings rise*, *The Guardian*, 30 November 2008, available at: <https://www.theguardian.com/world/2008/nov/30/iraq-honor-killings-women> (last accessed on 13 November 2019).

39- Ahmed, H. (2010) *Women’s Rights in the Middle East and North Africa 2010 - Iraq*, Freedom House, 3 March 2010, available at: <https://bit.ly/2JLa5OU> (last accessed 11 November 2019).

40- United Nations High Commissioner for Refugees (2005) *Country of Origin Information Iraq*, available at: <https://www.unhcr.org/4709f79a2.pdf> (last accessed 11 November 2019). Hereafter: United Nations High Commissioner for Refugees (2005).

41- Amnesty International (2004), *supra* note 30.

42- Khalaf, Z. (2005) *Killing for Honour*, Institute for Peace & War Reporting, 17 November 2005, available at: <https://iwpr.net/global-voices/killing-honour> (last accessed 11 November 2019).

- NGOs reported that sexual violence against women, particularly ‘honour crimes’, including domestic violence and killings, as well as kidnappings, increased in 2006.<sup>43</sup> In its report covering the 1 March 30 April 2006 period, the United Nations Assistance Mission for Iraq (UNAMI) reported that the KRG had confirmed that 534 women may have been victims of ‘honour killings’ since the beginning of 2006.<sup>44</sup> Despite the KRG’s amendment of the Penal Code and the designation of ‘honour’ as an aggravating rather than extenuating factor, continued reports of honour killings in the region prompted the SRSG to send a letter of concern to President Talabani on 24 August 2006.<sup>45</sup> While it was difficult to estimate the incidence of rape, in 2006, NGO sources reported a significant increase in the number of crimes. Several NGOs documented rapes committed by government officials, most of which alleged to have occurred in the Ministry of Interior during the initial detention of female prisoners.<sup>46</sup>
- An article published in *The Guardian* reported that in late December 2006, three female students from Mustansiriyah University were kidnapped by militias. Despite the payment of a ransom, their bodies were found in a morgue on 22 December 2006, showing signs of rape and torture. Official sources denied the incident, students from the university confirmed that it did take place.<sup>47</sup> In a separate incident, which was officially confirmed, a Turkoman woman from Tal Afar was raped by the Iraqi police. According to the official report, the attack took place when the police stormed the victim’s home in search for weapons and insurgents during Operation Law and Order. A lieutenant and three enlisted men initially denied the charges, but subsequently confessed after they were confronted by the woman.<sup>48</sup>
- According to the official website of the Dhi Qar Governorate police department, on 7 December 2006, the Babil Criminal Court decided to indict a defendant who had raped his daughter. The investigations revealed that in July 2005, the father took advantage of the mother’s absence from the house to sexually assault his daughter repeatedly, resulting in pregnancy. To cover up the crime, the man forced his daughter to have an abortion with the help of a female doctor and buried the foetus near his home. The court’s decision described the crime as heinous given its immorality and said that the perpetrator deserves the maximum penalty.<sup>49</sup>
- In 2007, a Yazidi girl, aged 17 years, was killed in the Ninawa Governorate. She was stoned to death in front of a crowd of 2,000 men because of her alleged relationship with a Muslim man. The murder was recorded and published online.<sup>50</sup>
- In 2008, near Kirkuk, a father shot his three teenage daughters after throwing boiling water on them because he suspected that they had had premarital sexual relations. Two of the girls died and the other suffered permanent sight impairment.<sup>51</sup>

43- United Nations Assistance Mission for Iraq (2006) Human Rights Report 1 March – 30 April 2006, available at: <https://bit.ly/2WDMchA> (last accessed 11 November 2019).

44- Ibid., p. 8.

45- U.S. Department of State (2007) Country Reports on Human Rights Practices for 2006 – Iraq, Bureau of Democracy, Human Rights, and Labor, 6 March 2007, available at: <https://2009-2017.state.gov/j/drl/rls/hrrpt/2006/78853.htm> (last accessed 11 November 2019).

46- Ibid.

47- Zangana, H. (2007) We Have Not Been Liberated, *The Guardian*, 6 March 2007, available at: <https://www.theguardian.com/commentisfree/2007/mar/06/iraqiwomensempowermentunder> (last accessed 11 November 2019).

48- Ibid.

49- High Judicial Council (2015) Iraqi Legislation Database - Article 3, available at: <http://iraql.d.hjc.iq:8080/VerdictsLstResults.aspx?AID=92023> (last accessed 11 November 2019).

50- A video of Doaa’s stoning to death by a large crowd of men was published on YouTube, but subsequently removed because the footage displayed violent content.

51- Puttick, M. (2015) The Lost Women of Iraq: Family-based violence during armed conflict, Ceasefire Centre for Civilian Rights and Minority Rights Group International, p. 28, available at: [https://minorityrights.org/wp-content/uploads/2015/11/MRG-report-A4\\_OCTOBER-2015\\_WEB.pdf](https://minorityrights.org/wp-content/uploads/2015/11/MRG-report-A4_OCTOBER-2015_WEB.pdf) (last accessed 11 November 2019). Hereafter: Puttick (2015a).

- In an article published on 13 January 2007, Matt Lattimer refuted George W. Bush's claim of March 2004 that "the advance of freedom in the Middle East has given new rights and new hopes to women [...] the systematic use of rape by Saddam's former regime to dishonour families has ended".<sup>52</sup> Lattimer found that since the 2003 invasion, women's lives became unimaginably worse, with rape, burning and murders increasing on a daily basis. The bodies of women dumped in morgues, which did not come from battlefields, confirm that these women were killed: some shot dead, some strangled or beaten to death, but most of whom burned. The cause of death is generally registered as an 'accident', although most of the bodies are claimed by the victims' families. One activist said: "Saddam was a dictator, but at least then we had the freedom to go out. Then there was only one criminal - Saddam - but now they are everywhere, you do not know who your persecutor is".<sup>53</sup>
- According to the U.S. State Department, the violations against women, such as threats, intimidation, beatings, and electric shocks, were also committed by the Iraqi police.<sup>54</sup>

### ***U.S.-led Coalition Forces Commit Crimes and Sexual Abuse Against Women***

- On 15 July 2003, a HRW report noted that women had been subjected to violence in detention.<sup>55</sup> While media coverage focused on the ill-treatment, torture, and sexual abuse of male detainees in Abu Ghraib prison, various sources indicate that female prisoners suffered similar treatment, including rape. According to another report, there was secrecy surrounding the detention of women due to collusion between their families and the occupying coalition forces: families feared social stigma, and coalition forces feared the condemnation of human rights organisations and groups and the wrath of Iraqis.<sup>56</sup>
- In October 2005, a UNHCR report stated that detained women had suffered ill-treatment, including sexual abuse, at the hands of the U.S.-led coalition forces in Abu Ghraib prison, east of Baghdad, and other detention facilities.<sup>57</sup> The UNHCR report also referred to the so-called 'Taguba report' issued in 2004,<sup>58</sup> which listed violations committed at Abu Ghraib prison. According to this report, there are images of a U.S. military policeman 'having sex' with a female Iraqi detainee and guards also photographed and videotaped naked female detainees.<sup>59</sup> Another incident involved the sexual abuse of a 17-year-old girl being recorded by the U.S. Department of Defence.<sup>60</sup>

52- Lattimer, M. (2007) Freedom lost, The Guardian, 13 December 2007, available at: <https://www.theguardian.com/world/2007/dec/13/gender.iraq> (last accessed 11 November 2019).

53- Ibid.

54- U.S. Department of State (2006) Country Reports on Human Rights Practices for 2005 – Iraq, Bureau of Democracy, Human Rights, and Labor 8 March 2006, available at: <https://2009-2017.state.gov/j/drl/rls/hrrpt/2005/61689.htm> (last accessed 11 November 2019).

55- Human Rights Watch (2003), *supra* note 37.

56- Ibid.

57- United Nations High Commissioner for Refugees (2005), *supra* note 40, p. 35. See also, Harding, L. (2004) The Other Prisoners, The Guardian, 20 May 2004, available at: <https://www.theguardian.com/world/2004/may/20/iraq.gender> (last accessed 11 November 2019).

58- The report was leaked from a U.S. Department of Defense investigation and published by the BBC. A copy of the report is available at: <https://www.globalsecurity.org/intell/library/reports/2004/800-mp-bde.htm> (last accessed 11 November 2019).

59- Ibid. See also United Nations High Commissioner for Refugees (2005), *supra* note 40, p. 35.

60- Ibid.

- A series of articles published in The Guardian shed light on several violations committed by coalition forces against Iraqi women. One article revealed that the U.S. officials had admitted to detaining Iraqi women “in the hope of convincing male relatives to provide information”, including the wives of high-ranking Ba’ath party members and suspected of financing the resistance.<sup>61</sup> Another article accused the coalition forces of using these women as a bargaining chip to convince their male relatives to surrender or admit to involvement in armed activities.<sup>62</sup> These rumours of sexual abuse in prison made the female detainees vulnerable to violence or honour killings by their families for bringing shame to the family.<sup>63</sup>
- On 6 July 2006, Al-Jazeera News reported that a North Carolina state court charged a soldier who had been suspended from service earlier and returned to the United States with rape and murder.<sup>64</sup> The U.S. Ministry of Justice said in a statement that the soldier, Stephen Greene, aged 21 years, who served in the 1<sup>st</sup> Battalion of the 502<sup>nd</sup> Regiment, raped a 15-year-old Iraqi girl who lived near Mahmoudiyah, south of Baghdad, then killed her and her family members. Photographs showed Greene burning the body of the victim to cover up his crime.<sup>65</sup>

### **Studies Confirm the Continued Practice of FGM and Increased Sexual Exploitation in Prostitution**

- In 2006, a U.S. State Department report said that although the law prohibits FGM in the Kurdistan Region, research by NGOs working in the region’s rural areas showed that FGM is still being practiced. The NGOs reported some FGM cases, but the government did not provide any real assistance to victims.<sup>66</sup> The report also confirmed that although Iraqi law criminalises prostitution, there was a significant increase in prostitution due to increased trafficking for the purpose of sexual exploitation of women and girls.<sup>67</sup>
- In 2005, 60 to 70 per cent of women and girls were estimated to have been subjected to FGM in the past in some Kurdistan areas (40 villages), according to a study by the German Wadi Organization.<sup>68</sup> The study said FGM practices are still widespread.

## **Most Frequent Patterns of Sexual Violence from 2003 to 2008**

Wars and repressive policies of the Ba’ath regime contributed to the spread and persistence of sexual violence against women and girls. Reports and testimonies of victims have confirmed that rape is the most common form of sexual violence. The mapping exercise showed that rape cases are largely connected to honour killings: many rapes end in the murder of the victim, either out of fear that the rape would be discovered, or because the victim is held responsible for the rape. The mapping report revealed an increase in the abduction of women by various actors: the victims’ families, state and non-state armed groups, as well as the U.S.-led coalition forces.

61- Harding (2004), *supra* note 57.

62- Carroll, R. (2005) The US Accused of Seizing Iraqi Women to Force Fugitive Relatives to Give Up, The Guardian, 14 April 2005, available at: <https://www.theguardian.com/world/2005/apr/11/usa.iraq> (last accessed 11 November 2019).

63- Harding, L. (2004) Focus Shifts to Jail Abuse of Women, The Guardian, 12 May 2004, available at: <https://www.theguardian.com/world/2004/may/12/iraq.usa> (last accessed 11 November 2019).

64- Al-Jazeera (2006) Uncle of girl raped in Iraq reveals to Al-Jazeera details of the crime, Al-Jazeera News, 5 July 2006, available at: <https://bit.ly/2JE6Qch> (last accessed 11 November 2019). See also, Al-Mada Newspaper (2006) After conviction, soldiers accused of Mahmoudiyah crime could face death penalty, Al-Mada Newspaper, 12 July 2006, available at: <https://bit.ly/2JE6Qch> (last accessed 11 November 2019).

64- Al-Jazeera (2006) Uncle of girl raped in Iraq reveals to Al-Jazeera details of the crime, Al-Jazeera News, 5 July 2006, available at: <https://bit.ly/2JE6Qch> (last accessed 11 November 2019). See also, Al-Mada Newspaper (2006) After conviction, soldiers accused of Mahmoudiyah crime could face death penalty, Al-Mada Newspaper, 12 July 2006, available at: <https://bit.ly/2JE6Qch> (last accessed 11 November 2019).

65- Al Mada Daily News (2006) If convicted, the soldiers accused of the Mahmoudiyah crime may face death sentence, Al Mada Daily News, 12 July 2006, available at: <https://almadapaper.net/sub/07-717/07-717.htm> (last accessed 18 December 2019).

66- U.S. Department of State (2007) Country Reports on Human Rights Practices for 2006 – Iraq, Bureau of Democracy, Human Rights, and Labor 6 March 2007, available at: <https://2009-2017.state.gov/j/drl/rls/hrrpt/2006/78853.htm> (last accessed 11 November 2019). Hereafter: U.S. Department of State Country Report on Human Rights Practices in Iraq 2006.

67- Ibid.

68- Esfandiari, G. (2005) Iraq: Study Says Female Genital Mutilation Widespread In North, RadioFreeEurope, available at: <https://www.rferl.org/a/1057007.html> (last accessed 11 November 2019).



## Cases of Sexual Violence Against Women and Girls from 2008 to 2014

After the cessation of the sectarian fighting that took place between 2005 and 2008, and despite the relative calm and the low frequency of attacks, Iraq failed to emerge from the security crisis and armed conflict. Bombings and killings continued here and there. Some of them were documented and highlighted by the media, while others were treated as just another incident or attack, knowing that about 1,000 monthly incidents or attacks were registered sometimes.<sup>69</sup> The attacks were spaced out and restricted to specific places, which allowed people to return to normal everyday life. However, this did not in any way mean that the situation was safe, especially as political disputes between the ruling parties continued.

On 27 November 2008, the Iraqi Parliament approved the agreement on the withdrawal of U.S. forces from Iraq. The agreement stipulated that all U.S. combat troops would withdraw from cities, villages, and barracks by no later than 30 June 2009, as a prelude to withdrawal from Iraqi territory, waters, and airspace by no later than 31 December 2011.<sup>70</sup>

Despite relative security improvements, women continued to live in poor conditions, due to insecurity, the spread of weapons, and the rising tribal influence and conservative and extremist trends, which led to the promotion of radical ideas that affected women's overall human rights at home and in the public sphere. Despite the urgent need for more legislative and other forms of protection at this critical time, the government's efforts remained intermittent and inconsistent. The issue of violence against women remained outside the Iraqi Government's priorities and agenda.

Below are some cases of sexual violence against women between 2008 and 2014.

### ***Increase in Honour Killings***

- Official statistics provided to UNAMI by the KRG show that between January and June 2008, 56 women were murdered and 150 burned in the Kurdistan region. Some of these cases followed previously documented patterns involving so-called 'honour crimes', where the victims were shot and left to die at home or in public places, characterised by family as 'accidental shootings'. UNAMI continued to receive reports of violent killings, domestic violence and burning of women. Most of these cases occurred in the rural areas in Erbil and Duhok. In the first quarter of 2008, the Sulaymaniyah Directorate to Combat Violence Against Women recorded three honour killings of women.<sup>71</sup>
- Reportedly, Iraq's 2012 Human Rights Report said honour killings remained a serious problem, with several instances being made to look like suicide. The case of Nikar Rahim is testimony to the problem of honour crimes – including rape – in Iraq and the (lack of) protection of women from SGBV. Nikar, a 15-year-old girl, was raped by one of her brothers and subsequently became pregnant. She sought the protection of the Kurdistan Regional Family Protection Directorate and stayed in a government shelter for six months after the birth of her child. However, her second brother managed to persuade the Family Protection Directorate to hand over his sister so that she could return to her family. When she returned home, he killed her on 20 July 2012.<sup>72</sup>

69- Knights, M. (2012) What is security like today in Iraq, Washington Institute for Near East Policy, 31 July 2012, available at: <https://www.washingtoninstitute.org/policy-analysis/view/what-is-security-like-today-in-iraq> (last accessed 11 November 2019).

70- Geneva Center for the Democratic Control of Armed Forces (DCAF) Status of Forces Agreement between the Republic of Iraq and the United States of America, Geneva Center for the Democratic Control of Armed Forces, available at: [https://www.dcaf.ch/sites/default/files/publications/documents/US-Iraqi\\_SOFA-en.pdf](https://www.dcaf.ch/sites/default/files/publications/documents/US-Iraqi_SOFA-en.pdf) (last accessed on 18 December 2019).

71- United Nations Assistance Mission for Iraq (2008) Human Rights Report 1 January – 30 June 2008, paras 51-52, available at: [https://www.ohchr.org/Documents/Countries/IQ/UNAMI\\_Human\\_Rights\\_Report\\_January\\_June\\_2008\\_EN.pdf](https://www.ohchr.org/Documents/Countries/IQ/UNAMI_Human_Rights_Report_January_June_2008_EN.pdf) (last accessed 11 November 2019).

72- Puttick (2015a), *supra* note 51.

- Another form of violence against women in the name of ‘honour’ is the so-called ‘*fasliyah*’ marriage, in which girls and women are forced to marry men from another family or tribe just to settle disputes and preserve the tribe’s interests or ‘honour’. According to government officials, as well as local and international NGOs, this traditional practice is still prevalent, particularly in the southern governorates of Iraq.<sup>73</sup>
- On 9 September 2013, a colonel in the Basra Governorate police stated that an armed man broke into a house in the Al-Andalus neighbourhood, shot a family of four women and one elderly man, and fled. According to the officer, the killer, a relative of the family, committed the crime under the pretext that the family was engaged in prostitution. Similar killings by militias belonging to extremist religious groups targeted brothels in Baghdad and other areas.<sup>74</sup>

### **Human Trafficking**

- According to a Time magazine report published on 7 March 2009, the exact number of Iraqi women and children who have been sold as sex slaves since the fall of Saddam’s regime in 2003 is unknown. There are no official figures or statistics, given the clandestine and mysterious nature of these crimes. Some activists in Baghdad estimate that there are dozens of such secret crimes.<sup>75</sup> A 2008 U.S. State Department report on human trafficking said the Iraqi Government lacks the appropriate mechanisms and procedures to combat such crimes, noting that Baghdad “offers no protection services to victims of trafficking, reported no efforts to prevent trafficking in persons and does not acknowledge trafficking to be a problem in the country”.<sup>76</sup>

### **Security Forces Commit Crimes of Sexual Violence Against Women**

- On 28 December 2008, Mrs. A., 29, was arrested in her home in Mahmoudiyah on charges of kidnapping and murdering her sister’s fiancé. Mrs. A. told the researcher accompanying the HRW team that security officers tied her up at the company’s headquarters, blindfolded her, and left her in her underwear in a secluded room. Her mother and younger sisters were then arrested and detained for three months and seven days and were not allowed to see a lawyer. She stated that she and her younger sister were assaulted and raped during the interrogations while in detention. She said: “They used a thick black tube they called ‘the donkey’. They beat me with it and inserted it in my vagina. They tied me up in a bed and threatened to have their dogs rape me. They asked me how I had sex with my husband and made me dance with them”.<sup>77</sup> After nearly a year in detention, a complaint was filed against a prison guard who had raped her sister, who was held in Karrada prison, based on blood tests that indicated her pregnancy. However, they were met with disdain by the judge when he visited the prison to investigate the complaint: “When he heard that her last name is the name of a large Sunni tribe, he said: ‘So, you’re a terrorist’”.<sup>78</sup>

73- Ibid.

74- Azzaman Newspaper (2010) Honour crime on suspicion of prostitution leaves six women, two men dead in Basra, Azzaman Newspaper, 9 September 2010, available at: <https://bit.ly/36ew2j4> (last accessed 11 November 2019).

75- Abouzeid, R. (2009) Iraq’s Unspeakable Crime: Mothers Pimping Daughters, Time, 07 March 2009, available at: <http://content.time.com/time/world/article/0,8599,1883696,00.html> (last accessed 11 November 2019).

76- U.S. Department of State (2008) Trafficking in Persons Report – June 2008, p.271, available at: <https://2009-2017.state.gov/documents/organization/105501.pdf> (last accessed 12 November 2019).

77- Human Rights Watch (2014) No One is Safe: the Abuse of Women in Iraq’s Criminal Justice System, available at: <https://www.hrw.org/ar/report/2014/02/05/256515> (last accessed 11 November 2019). Hereafter: Human Rights Watch (2014).

78- Ibid.

- A female prisoner under investigation was raped by three officers in May 2009 in Tikrit. The crime was revealed five months later when signs of the victim's pregnancy became visible. Prison guards claimed that they had approved the victim's request to meet her brother inside the prison, so they allowed him to enter his pregnant sister's cell, where he proceeded to shoot her dead. It was not revealed how the brother was able to carry a loaded gun into the prison despite the tight security measures imposed by the prison's administration on civilians entering the prison. The court treated the crime as an 'honour killing' and released all guards and officers for lack of evidence. However, a morgue employee took a DNA sample from the foetus, which died as a result of the mother's death, and had all the suspected guards take a DNA test. The results showed that the father was the police lieutenant who supervised the prison guards.<sup>79</sup> The source said there are many narratives about the fate of the accused, including that they were once again released for lack of evidence, that they were transferred to a prison in Baghdad (official narrative), and is that the case was settled according to tribal customs, with the lieutenant's clan paying the victim's family to drop the charges.<sup>80</sup>
- In June 2011, a 25-year-old woman was arrested on a street in Baghdad's Karrada neighbourhood. Security forces charged her with the murder of her husband. HRW spoke to her family, who confirmed that she was subsequently raped by a police major while in police custody. The defendant's mother, who was also in custody under investigation, said that she heard her daughter's screams from the adjacent room. The court relied solely on the defendant's confessions, and on 18 September 2012, she was convicted of murder and sentenced to death. During the trial, the judge refused to allow the defendant to present evidence of allegations of rape and torture. After a while, a video<sup>81</sup> was posted on social media that showed a blindfolded woman being violently interrogated by four men in civilian clothes. The young woman's father confirmed that the woman in the video was his daughter. He was also able to identify two of her investigators. He filed a complaint before the Inspector General for Internal Affairs on 4 October 2011 and the Ministry of Human Rights. On 27 October 2011, an arrest warrant was issued for the officers who appeared in the video, and on 9 July 2012, the officer who raped the defendant was arrested. However, all charges were dropped, and all the accused were released on bail on 19 November 2012 and returned to their posts as police officers.<sup>82</sup>

### ***Violations and Crimes of Sexual Violence Committed Against Women and Girls by Families, Officials and Extremist Armed Militias***

- In partnership with local NGOs, Heartland Alliance monitored and documented cases of sexual violence, such as rape, sexual abuse, sex trafficking, forced marriage, child marriage, and FGM in five governorates (Baghdad, Basra, Kirkuk, Sulaymaniyah and Duhok) between 2009 and 2011.<sup>83</sup> The cases mentioned in the report are true accounts of women who were legally assisted by lawyers and social workers to fulfil their needs within the justice system as victims and defendants. The report said that police, investigators, prosecutors, and judges often ignore the fact that the defendants were subjected to SGBV before they committed the crime for which they are being tried. They are not referred to as victims of violence, despite the importance of this acknowledgment in their exemption from the charge or the reduction of their penalty. The report also showed that some judges deal with SGBV cases with a clear bias and assume conviction before looking at all the

79- Buratha News Agency (2009) DNA test exposes three police officers who raped a female prisoner in Tikrit and let her brother into her cell to kill her, Buratha News Agency, Baghdad-Washington, Al-Malaf Press, 2 May 2009, available at: <http://burathanews.com/arabic/news/64916> (last accessed 11 November 2019). See also, Nawaret (2009) Story of Iraqi prisoner Dalal who was raped by her guards, killed by her brothers, Nawaret website, 26 April 2009, available at: <https://bit.ly/34gmkLf> (last accessed 11 November 2019).

80- Ibid.

81- A video on YouTube shows a group of men dressed in civilian clothes investigating a blindfolded woman on charges of the murder of her husband. The video is available at: <https://www.youtube.com/watch?v=De9BeXMEVXM> (last accessed 11 November 2019).

82- Human Rights Watch (2014), *supra* note 77.

83- Heartland Alliance (2011) Institutionalized violence against women and girls, laws and practices in Iraq, available at: <https://bit.ly/2q3wXIT> (last accessed 11 November 2019). Hereafter: Heartland Alliance (2011).

evidence. During investigations and trials, some judges also revile lawyers representing victims of sexual violence, criticising them for representing women and girls involved in immoral cases. The report explained that many women and girls accused of prostitution were originally victims of sex trafficking who were forced into prostitution by family members and relatives or by criminal gangs. The report also noted that in some cases prostitutes were released without investigation or prosecution, which indicates the complicity of some police officers with trafficking gangs, so that young women continue to be exploited in prostitution.

- A HRW report issued in February 2011 found that in the eight years following Iraq's occupation by coalition forces the situation of women had deteriorated dramatically. Armed militias promoting extremist thoughts committed murders against women and girls, in addition to continued murders inside the home by parents, brothers and husbands, under various pretexts of immoral behaviour. If women seek asylum and government protection, they are harassed and abused by the all-male police and security institutions. Trafficking in women and girls inside and outside Iraq remained widespread. Displaced women who fled sectarian violence, widows, and breadwinners who have become dependent on state aid, were considered to be particularly vulnerable. In some practices of a religious nature, aid and support are provided for women in exchange for their acceptance to engage in so-called 'pleasure marriage', a practice in which women are forcibly exploited and stigmatised and have no recourse for any redress or compensation in the case of exploitation or abuse.<sup>84</sup>

- In the Kurdistan Region, the stepmother of a 15-year-old orphan girl sold her to a trafficker who tried to force her into prostitution. The girl managed to escape and went to a shelter. The girl's relatives were able to locate her and tried to kill her, forcing the police to move and detain her at the police station in an effort to protect her.<sup>85</sup> According to the report the police take these measures when they are unable to protect women and girls or when no safe shelters are available. In many cases, the police detain the women and girls who are victims of violence under Article 240 of the Penal Code No. 111 of 1969, to protect them from the violence (and possibly murder) committed by their families under the pretext of harming the honour of the family and exposing them to shame. Women and girls who have been raped are also under great pressure from their families and are often forced to marry the perpetrator/rapist. In Baghdad, a 12-year-old girl was forced by her family to marry her rapist. After the marriage, the husband violently beat the girl and raped her continuously. When she asked for a divorce, the husband refused, telling the judge: "She was a dishonourable woman, and I saved her honour by marrying her". The judge rejected the girl's request for divorce, at which point she attempted suicide by self-immolation. After the husband travelled outside Iraq, he divorced her over the phone. This case, as in similar cases, did not reach the court, and families usually consider the victim to have brought shame and believe that marriage would restore the family's honour.<sup>86</sup>

### ***Untried Rape Cases***

- On 21 June 2011, a 57-year-old woman was raped by the 27-year-old bus driver who was taking her from Baghdad to the southern Iraqi city of Nasiriyah. When all the other passengers disembarked, the perpetrator (i.e. the driver) claimed that he needed to refuel and drove off the main street to a remote area where he stopped the vehicle and attacked the victim. He threatened her with a knife, tore off her clothes, and raped her. The perpetrator concealed the traces of the crime and knew exactly what to do to avoid any legal accountability. He also assured the victim that "there is no point in filing a complaint. Shame falls on you, not me. I have done this with many women, and none of them dared to file a complaint against me for fear of the shame that would follow her".

<sup>84</sup>- Human Rights Watch (2011) *At a Crossroads: Human rights in Iraq eight years after the US-Led Invasion*, 21 February 2011, available at: <https://www.hrw.org/ar/report/2011/01/21/256170> (last accessed 11 November 2019).

<sup>85</sup>- Heartland Alliance (2011), *supra* note 83.

<sup>86</sup>- *Ibid.*

The victim filed a complaint against the perpetrator despite his threats, which led to him being arrested. However, the police officer's complicity with the perpetrator obstructed the course of legal proceedings. He concealed the evidence i.e. the knife that was seized in the his vehicle and did not immediately refer the victim to a medical professional for an examination, including the documentation of bruises and the conduct a semen test. Instead, he added to the case file a statement of the victim's refusal to be referred to medical examination. He also tried to persuade the victim to waive her complaint with the same argument that the perpetrator had used, i.e. that she would be exposed to scandal and shame. The perpetrator managed to escape during the initial investigation, but was subsequently arrested by the police. The investigation was conducted surprisingly quickly, as if it were a minor offence or misdemeanour: the judicial and initial investigation, referral, and trial were all conducted within one month and five days. On 27 July 2011, the perpetrator was tried and released for 'lack of evidence'; the only evidence being her statement and her torn clothes.<sup>87</sup>

- Iraq's 2012 Human Rights Report noted that there were no reliable statistics on the exact number of rape incidents against women and girls, or how effectively the government implemented the Penal Code, which criminalises rape. The law allows the dismissal of the case if the perpetrator marries the victim and only prescribes a penalty of imprisonment if the victim dies. The law also did not address marital rape. The results of the report showed that due to social traditions and reprisals against both the victim and the perpetrator, victims of sexual offences usually refrained from reporting to law enforcement and legal recourse institutions. On the other hand, a report issued by the United Nations Development Programme (UNDP) in March 2012 is said to have documented cases in which rape victims' families insisted that the victim marry the perpetrator to preserve the family's honour. The report said that in some cases in which the victim refused this marriage, her family asked the court and the judiciary to intervene and force the marriage.<sup>88</sup>

### ***FGM and Virginitly Testing: Continued Violations Against Women***

- A joint study by the United Nations Children's Fund (UNICEF) and the Iraqi Government in 2012 estimated that 12 per cent of all women and girls between the ages of 15 and 49 had been exposed to some form of female circumcision that caused FGM. According to the study, 58 per cent of the women admitted to being exposed to some form of these practices, which are most prevalent in the Erbil and Sulaymaniyah Governorate. The KRG has banned female circumcision in the region, but no such law has been enacted at a state level.<sup>89</sup>

- Several press reports<sup>90</sup> found that several virginitly tests were conducted in Baghdad by court order. In these cases, men who accuse their wives of non-virginitly on the day after their marriage may request a virginitly testing through the court. The examinations were reportedly carried out at the Institute of Forensic Medicine, and the results were immediately submitted to the courts.<sup>91</sup>

87- Details of the case were relayed by the victim's lawyer on 5 May 2019, who was an official in the Iraqi Al-Amal Association's Najaf office for more than 10 years. The lawyer dealt with this case during his work at the Family Guidance Center. The lawyer added that while in charge of the case, he asked a group of female lawyers: "Would you file a complaint if you suffered a similar crime?" All the lawyers replied that they would not file a complaint in any case, for fear of their families and the fear of scandal and stigma.

88- Puttick (2015a), *supra* note 51.

89- U.S. Department of State (2012) Country Reports on Human Rights Practices for 2012 – Iraq, pp. 34-35, available at: [https://photos.state.gov/libraries/iraq/5/Reports/iraq\\_2012\\_hrr\\_arabic.pdf](https://photos.state.gov/libraries/iraq/5/Reports/iraq_2012_hrr_arabic.pdf) (last accessed 2019). Hereafter: U.S. Department of State Country Report on Human Rights Practices in Iraq 2012.

90- See e.g. Dunlop, W. (2012) Institute of Forensic Medicine Conducting Virginitly Testing Daily by Court Order, Azzaman Newspaper, 1 July 2012, available at: <https://bit.ly/2oyQ1lp> (last accessed 11 November 2019). See also, Pearlman, A. (2010) Iraqi Women Forced to Undergo Virginitly Testing, GlobalPost, 3 July 2012, available at: <https://www.pri.org/stories/2012-07-03/iraqi-women-forced-under-go-virginitly-testing> (last accessed 11 November 2019).

91- U.S. Department of State Country Report on Human Rights Practices in Iraq 2012, *supra* note 89, pp. 34-35.

- In 2013, the German-Iraqi Wadi Organization and the Kirkuk-based Iraqi women's organisation Pana published the results of a study conducted on the prevalence of FGM within the governorate. The study was conducted on 1,212 women and girls over the age of 14. The results indicated that 38.2 per cent of women in the city of Kirkuk underwent FGM, 65.4 per cent of which in the Kurdish community, 25.7 per cent in the Arab community, and 12.3 per cent in the Turkmen community. Most of the girls reported having undergone this operation between the ages of four and seven, and in more than 75 per cent of the cases, the operations were conducted collectively, i.e. with their sisters, relatives or other girls from the same neighbourhood.<sup>92</sup>

### ***Rape and Murder of Girls***

- On 16 August 2012, a soldier off-duty in the Zubair district of the Basra Governorate called Akram al-Mayahi abducted and raped 4-year-old Banine Haidar then beat her to death with a stone.<sup>93</sup> On 11 October 2012, 5-year-old Abir Ali was raped by seven men who beat her on the head and strangled her to death, then threw her body in an abandoned house in the region of Shuaiba, west of Mosul.<sup>94</sup> In January 2012, a military officer raped an underage girl near Mosul. On 27 February 2013, three people raped 7-year-old Samah Ali near the Washash police station in Baghdad.<sup>95</sup>

- The (Asayish) Security Director in the Kurdistan Region said at a press conference on 9 February 2013 that a force from the Erbil Directorate arrested Saadallah Hamad, born in 1994, from Mosul, for raping 14 girls, after receiving complaints from citizens about the rape of girls. The perpetrator, a construction worker, confessed to luring his victims to the workshops in which he worked. He has a criminal record and was previously detained in Erbil prison.<sup>96</sup>

### ***Child Marriage in Official Statistics***

- Statistics issued by the High Judicial Council in Al-Baya' district<sup>97</sup> in Baghdad Governorate indicated that the number of marriage authorisations reached 80 in 2013. Pursuant to Article 8(1) of the Personal Status Code No. 188 of 1958, a marriage authorisation is granted: "If a person aged 15 and above requests to marry, the judge may authorise the marriage if the person is found to be eligible and physically capable, after obtaining the consent of his/her legal guardian". Marriage registration records also amounted to 383 cases. Marriage registration records are usually issued for out-of-court marriages, especially marriages of girls under the age of 15.<sup>98</sup>

## **Most Frequent Patterns of Sexual Violence from 2008 to 2014**

Between 2008 and 2014, rape and honour killings continued to be the most common forms of sexual violence against women and girls in Iraq. These crimes were brutal: girls as young as 4 and 5-years-old were raped and killed. Fragile security conditions and the poor performance of security institutions led to further human trafficking and exploitation of women and girls into organised prostitution. From 2008 to 2014, there was relative recognition of some violations and crimes of sexual violence against women that were previously tolerated in Iraqi society, such as FGM.

92- Puttick (2015a), *supra* note 51.

93- Sky News Arabia (2012) Panic in Basra after rape and murder of two girls, Sky News Arabia, 9 November 2012, available at: <https://bit.ly/34dw6xC> (last accessed 11 November 2019).

94- The video was broadcast on Al-Hurra TV on 14 October 2012. The video is also Youtube, entitled: "Rape of Iraqi girl Abir in Basra", available at: <https://www.youtube.com/watch?v=HMdAuDj1NtE> (last accessed 11 November 2019).

95- Puttick, M. (2015), No Place to Turn: Violence against women in the Iraq conflict, Ceasefire Centre for Civilian Rights and Minority Rights Group International, available at: <https://minorityrights.org/wp-content/uploads/2015/10/ceasefire-report-no-place-to-turn.pdf> (last accessed 11 November 2019). Hereafter: Puttick (2015b).

96- Alsumaria News (2013) Arrest of a man who 'raped' 14 girls in Erbil, Alsumaria News, 9 February 2013, available at: <https://bit.ly/2PKOH0m> (last accessed 11 November 2019).

97- Personal Status Court, Department of Public Relations and Legal Affairs, Statistics Department, Form No.7.

98- Statistics issued by the High Judicial Council, Department of Public Relations and Legal Affairs, Statistics Department, Personal Status Court in Al-Baya' district, Form No.7 (obtained by the report team).

## Crimes of Sexual Violence Against Women and Girls from 2014 to 2018

As security and sectarian tensions mounted in some governorates, ISIS terrorist groups took control of large parts of Iraqi territory in June 2014. Mosul, Iraq's second-largest city, fell under ISIS control completely. The armed conflict between government forces (and affiliated militias) and terrorist armed groups was marked by the mass murder of civilians and widespread human rights violations. ISIS adopted a policy of repression and torture against all groups and communities that opposed their ideology. They deliberately and systematically targeted the various religious and ethnic communities in Iraq, including Turkmen, Shabaks, Kakiya, Philistine Kurds, Christians, Shiite Arabs, Sunni Arabs who oppose their practices. Many of the crimes committed by ISIS are considered to have constituted crimes against humanity, war crimes and/or genocide, amid the collapse of the security apparatus and the total absence of the rule of law and widespread impunity for the perpetrators of these gross violations.

From the beginning, ISIS imposed its extremist ideology on women's bodies by imposing the hijab and the niqab and preventing them from leaving the house. Sexual violence against women was one of the greatest atrocities committed by ISIS in the areas under its control. SGBV, including the abduction, rape, sexual slavery, and forced marriage of women and girls, was systematically and widely used as a tactic and tool of war. Sexual violence targeted women of all sects and minorities. Even Sunni Arab women and girls were sexually assaulted and forced to marry ISIS fighters. However, the most violent forms of sexual violence were committed against women from the Yazidi community, as thousands of Yazidi women and girls were taken as 'slaves',<sup>99</sup> paving the way for systematic sexual slavery. The fate of dozens of women and girls is still unknown to this day, even after Iraqi forces announced the liberation of Mosul and the Ninawa Plain from ISIS on 10 July 2017.

From 2014 to 2018, the documentation of sexual violence crimes increased exponentially. International and local organisations focused their efforts and attention on documenting crimes of sexual violence committed against Yazidi women who survived ISIS rule and were able to disclose what had happened to them when their families came to support them without blaming or stigmatising them, as is customary in cases of sexual violence. The spread of news and reports of the rape and sexual enslavement of Yazidi women by ISIS on all media channels and social media - somewhat - broke the silence and secrecy that surrounded SGBV crimes and violations. Talk of sexual violence became possible, as the international community and local CSOs called for prosecuting perpetrators of sexual violence crimes as crimes against humanity and war crimes.

The following are some SGBV violations and crimes committed between 2014 and 2018:

### ***ISIS Commits Crimes of Abduction, Rape and Sexual Slavery Against Yazidi Women and Girls***

- On 13 August 2014, a joint statement issued by SRSG/SVC Zainab Hawa Bangura and SRSG for Iraq Nickolay Mladenov, said: "We are gravely concerned by continued reports of acts of violence, including sexual violence against women and teenage girls and boys belonging to Iraqi minorities". Moreover, they stated that "Atrocious accounts on the abduction and detention of Yazidi, Christian, as well as Turkomen and Shabak women, girls and boys, and reports of savage rapes, are reaching

<sup>99</sup>- In its October 2014 issue, Dabiq magazine, published by ISIS terrorist groups, said that the Yazidis are a group of polytheists and should be treated as such, and that Yazidi women and children may be captured and enslaved and considered 'spoils of war'. See United Nations (2016) A Call for Accountability and Protection: Yazidi Survivors of Atrocities Committed by ISIL, Office of the High Commissioner for Human Rights and United Nations Assistance Mission for Iraq - Human Rights Office, August 2016, fn. 4 and pp. 14-16, available at: [https://www.ohchr.org/Documents/Countries/IQ/UNAMIReport12Aug2016\\_en.pdf](https://www.ohchr.org/Documents/Countries/IQ/UNAMIReport12Aug2016_en.pdf) (last accessed 11 November 2019). Hereafter: OHCHR and UNAMI Report (2016).

us in an alarming manner”, noting that approximately 1,500 Yazidis and Christians had been forced into sexual slavery. The statement strongly condemned the explicit targeting of women and children and the barbaric acts committed by ISIS against minorities in areas under its control, stressing that “acts of sexual violence are gross human rights violations that can be considered war crimes and crimes against humanity”.<sup>100</sup>

- Local and international newspapers and UN reports confirmed that ISIS collectively abducted more than 1,000 Yazidi women in July and August 2014. According to multiple sources, ISIS members sold women to fighters as ‘sex slaves’, and the fate of most of these women and girls remains unknown. On 15 August 2014, international media confirmed that ISIS terrorist groups had taken control of the Yazidi village of Kojo. After detaining all the villagers, ISIS members separated men and boys over the age of 10 from women and children. Two days later, they executed 84 men and transported at least 300 women and girls to Mosul. According to some Yazidi witnesses, ISIS abducted women and girls from the villages of Sinjar and used most of them as sex slaves. The number of abducted women and girls is around 4,000, but the insecurity in the area prevented the conduct of an accurate assessment of the numbers.<sup>101</sup>

- Since September 2014, the Human Rights Office of UNAMI received an increasing number of reports of women and children who managed to escape ISIS captivity and reached the Kurdistan Region. UNAMI and the Office of the High Commissioner for Human Rights (OHCHR) interviewed two young women who had been raped. One described how she was raped in Mosul and how she heard the screams of girls who had been locked up in a small room next to the main hall in which hundreds of women and girls were locked up. Women were detained in various places, such as schools, government buildings, hotels, and prisons. They were transported several times and sometimes taken to Syria. Women and girls were sold at auction as slaves and subjected to all forms of physical and sexual violence.<sup>102</sup>

- On 3 August 2014, when ISIS attacked Tal Qasab and started shooting at the village, its Yazidi residents were forced to flee. ISIS blocked the roads and detained nearly 350 Yazidi men on the second floor of the city hall, while 2,000 women and children were taken to the backyard of the building. One witness who miraculously escaped said that he heard screams of women and girls. Later, it was found that ISIS had taken 500 Yazidi girls, including his 13-year-old daughter, and loaded them onto large buses to transport them to Mosul. A few months later, the witness/father was able to contact the girl’s captor and persuaded him to sell the girl. He bought his daughter back for 600 USD.<sup>103</sup>

- After interviewing women and girls who escaped ISIS captivity on her visit to Iraq from 26 to 29 April 2015, SRSR/SVC Zainab Bangura said that sexual violence was being used “as a deliberate tactic of war to advance key strategic priorities, such as recruitment, fundraising (through the sale of women and girls in slave markets, the payment of ransoms by their families; to enforce discipline and order through the punishment of dissenters or family members; and to advance their radical ideology”. UNAMI and OHCHR continued to receive reports that civilians in ISIS captivity were subjected to horrific acts of sexual and physical violence. Many witnesses confirmed that after ISIS took control of any Yazidi village, men were usually separated from women and girls after their arrest. A Yazidi woman recounted that after ISIS attacked her village in early August 2014, they seized her valuables (gold and money), then separated the men from women and children. Men and boys were loaded into cars, after which she heard gunfire. She believes that her son and

<sup>100</sup>- United Nations, Statement of the Special Representative of the Secretary-General on Sexual Violence in Conflict Zainab Hawa Bangura and the Special Representative of the Secretary-General for Iraq Nikolay Mladenov, 13 August 2014, available at: <https://www.un.org/sexualviolenceinconflict/press-release/iraq-un-officials-call-for-immediate-end-to-sexual-violence-against-iraqi-minorities/> (last accessed 11 November 2019).

<sup>101</sup>- U.S. Department of State (2015) Country Reports on Human Rights Practices for 2014 – Iraq, Bureau of Democracy, Human Rights, and Labor, available at: <https://bit.ly/2NDNQvG> (last accessed 11 November 2019).

<sup>102</sup>- United Nations (2015) Report on the Protection of Civilians in the Armed Conflict in Iraq: 1 May – 31 October 2015, available at: [https://www.ohchr.org/Documents/Countries/IQ/UNAMIRreport1May31October2015\\_AR.pdf](https://www.ohchr.org/Documents/Countries/IQ/UNAMIRreport1May31October2015_AR.pdf) (last accessed 11 November 2019).

<sup>103</sup>- OHCHR and UNAMI Report (2016), *supra* note 99.



all her male relatives were killed. Women and girls were sold and raped by ISIS fighters. An 18-year-old woman reported being captured by ISIS in August 2014 in the Sinjar district in Ninawa, along with 11 members of her family. After the men were separated from women and children, about 100 women were taken to Mosul and held in a large building with other women; where married and unmarried women were separated. The victim pretended she had a mental illness in order to stay with her mother, but three of her sisters were sold and taken to Syria.<sup>104</sup>

- In August 2014, ISIS fighters abducted and detained thousands of women and children from various ethnic and religious groups, most of whom belonged to the Yazidi religion. Women and girls were sold to ISIS fighters. The abducted women were subjected to rape, sexual slavery, forced marriage and domestic servitude. Reports indicate that ISIS would execute the abductees if they refused to marry the fighters. Media reports said that ISIS sold some of the abductees to wealthy persons in Gulf states. Unverified reports indicated that some of the abductees were taken to Turkey and Saudi Arabia. ISIS adopted an organised system for the sale and purchase of women and girls abducted for sexual slavery, using sales contracts documented by ISIS-run courts. Between 2015 and 2017, many women and children escaped ISIS captivity. Some women were pregnant as a result of rape and sex trafficking.<sup>105</sup>

- On 1 September 2014, the director of OHCHR in Iraq said that ISIS had abducted an estimated 2,500 women and girls from minority groups in the Ninawa Governorate.<sup>106</sup> On 15 June 2016, the Human Rights Council estimated that at least 3,200 Yazidi women and girls remained in ISIS captivity in areas under its control in Syria.<sup>107</sup>

- The report of the Human Rights Council Universal Periodic Review Working Group published in November 2014 addressed the heinous crimes committed by ISIS against civilians, including war crimes, genocide, and crimes against humanity, some of which targeted women and girls specifically, such as sale in the slave market, forced marriage, and sexual exploitation. The report also noted that ISIS benefited greatly from the security vacuum caused by the unrest in some governorates, which gave it more chances to commit its crimes.<sup>108</sup>

- The shadow report submitted by local and international organisations in response to the Iraqi state's report to the UN Human Rights Commission at the 115th session in October 2015 noted flagrant violations and SGBV cases.<sup>109</sup> The report documented accounts and testimonies of women and girls who suffered gruesome practices at the hands of ISIS fighters. On 1 May 2015, a survivor reported that ISIS kidnapped a 12-year-old girl and passed her between multiple ISIS fighters who repeatedly raped her for two days. Eventually, she was taken to a hospital where she was treated for internal bleeding. During an interview with five women who escaped ISIS captivity, a 15-year-old interviewee said that she had been sold and raped by over 10 ISIS fighters. Everyone treated her the same way: when they finished their daily prayer, they raped her. In Al-Adnaniyah, a survivor gave her testimony to a human rights activist about the way ISIS assigned the kidnapped Yazidi women and girls to fighters. She said that the girls' names would be written on small pieces

<sup>104</sup> United Nations (2015) Report on the Protection of Civilians in the Armed Conflict in Iraq: 11 December 2014 – 30 April 2015, Office of the High Commissioner for Human Rights and United Nations Assistance Mission for Iraq – Human Rights Office, pp.21-22, available at: [https://www.ohchr.org/Documents/Countries/IQ/UNAMI\\_OHCHR\\_4th\\_POCHReport-11Dec2014-30April2015.pdf](https://www.ohchr.org/Documents/Countries/IQ/UNAMI_OHCHR_4th_POCHReport-11Dec2014-30April2015.pdf) (last accessed 11 November 2019). Hereafter: OHCHR and UNAMI Report (2015).

<sup>105</sup> U.S. Department of State (2018) Trafficking in Persons Report – June 2018, available at: <https://www.state.gov/j/tip/rls/tiprpt/countries/2018/index.htm> (last accessed 11 November 2019).

<sup>106</sup> Oakford, S. (2014) Women Abducted by the Islamic State Feared Trapped in Sexual Slavery, VICE News, 10 September 2014, available at: <https://news.vice.com/article/women-abducted-by-the-islamic-state-feared-trapped-in-sexual-slavery> (last accessed 11 November 2019).

<sup>107</sup> Human Rights Council (2016) "They Came to Destroy": ISIS Crimes Against the Yazidis, UN Doc. A/HRC/32/CRP.2, 15 June 2016, available at: [https://www.ohchr.org/Documents/HRBodies/HRCouncil/ColSyria/A\\_HRC\\_32\\_CRP.2\\_en.pdf](https://www.ohchr.org/Documents/HRBodies/HRCouncil/ColSyria/A_HRC_32_CRP.2_en.pdf) (last accessed 11 November 2019).

<sup>108</sup> Human Rights Council (2014) Report of the Working Group on the Universal Periodic Review-Iraq, UN Doc. A/HRC/28/14, 12 December 2014, available at: <https://bit.ly/36uJ0JJ> (last accessed 11 November 2019).

<sup>109</sup> The Organization of Women's Freedom in Iraq et al. (2015) Seeking Accountability and Demanding Change: A Report on Women's Rights Violations in Iraq, available at: <https://bit.ly/2C8lCnh> (last accessed 11 November 2019).

of paper that would be tossed into a bowl, and each fighter would pick a piece of paper and take the girl to a back room to rape her. The fighters would stand outside the rooms laughing while the girls screamed inside.<sup>110</sup>

### ***Honour Killings Against Women and Girls***

- On 14 July 2014, the Interior Ministry announced the formation of a commission to investigate the murder of 28 women in Baghdad's Zayouna area three days earlier. The official spokesman stated that the reasons for the crime were 'related to the violation of Public morality'.<sup>111</sup> On the same day, France 24 news agency reported that these women were prostitution workers who were killed, according to eyewitnesses, by armed men wearing a black uniform, who spray painted: 'This is the fate of all prostitutes' on the building where the crime was committed. Wissam Sami, 23, a resident of the neighbourhood, said: "People are scared. They don't know their neighbours. Each person minds the security of their family and home. Some girls were killed near me a few months ago and the neighbours only knew about it days later because of the smell". He added: "I don't know who is doing this. ISIS and Shiite militias dress in black, and anyone can buy a similar uniform and forge a card".<sup>112</sup>
- In May 2014, Suleiman Dhiab Younes, 45, shot his wife Dunia in the city of Kalakchi in the Governorate of Duhok. He did not stop there: he mutilated her body and dragged it along the road using his car, then dropped it on a random street. Suleiman forcibly married Dunia at the age of 14, thereby violating the law. He physically and psychologically abused her. In addition, Suleiman was already married and had nine children with his wife, who lived with them in the same house. According to an article published on the website of Deutsche Welle, the reason for the crime was that the girl had a male friend of her age that she played with, which the husband considered to be an illegal relationship.<sup>113</sup>
- On 6 April 2017, Al-Hayat newspaper reported that in the fall of 2016, police had found the body of a woman in her thirties in a pile of garbage in the region of Al-Sadda on the outskirts of Zafaraniyah in Baghdad. The woman was shot in the head and neck. The police handed over the victim's body to the Forensic Department. According to the victim's sister, she was killed by her father and cousins who suspected that she had a relationship with an unknown man.<sup>114</sup>
- On 19 June 2016, the Baghdad/Karkh Federal Court of Appeals sentenced a convict to life in prison for the murder of his sister and nephews under the pretext of washing away the shame. According to the source, the victim had fled the house four years before the murder and had recently returned to her family's home.<sup>115</sup>
- On 18 August 2018, the Kirkuk police department announced that a 15-year-old girl was killed by her brother, who claimed he intended 'to wash away the shame'. He turned himself in to the local police in Dumez.<sup>116</sup>

<sup>110</sup>- *Ibid.*

<sup>111</sup>- Alsumaria News (2014) Interior Ministry: Public morality backdrop of Zayouna incident, Alsumaria News, 14 July 2014, available at: <https://www.alsumaria.tv/news/105529/> (last accessed 11 November 2019).

<sup>112</sup>- Agence France 24 (2014) Mystery surrounds file of murder of more than 20 'prostitutes' whose bodies were found in brothers in Baghdad, Agence France 24, 14 July 2014, available at: <https://bit.ly/2PFPWxP> (last accessed 11 November 2019).

<sup>113</sup>- Al-Malaika, M. (2014) Murder of Dunia Brings Back Issue of Honour Killings in Kurdistan, Deutsche Welle, 30 May 2014, available at: <https://bit.ly/2N0RZuw> (last accessed 11 November 2019).

<sup>114</sup>- Al-Yasiri, A. (2017) Iraq: Honour killings of women registered as ordinary deaths, Al-Hayat Newspaper, 6 April 2017, available at: <https://bit.ly/2JCpJMq> (last accessed 11 November 2019).

<sup>115</sup>- Al-Ghad Press (2016) Man who killed his sister and nephews under the pretext of washing away the shame sentenced to life, Al-Ghad Press, 19 June 2016, available at: <https://www.alghadpress.com/view.php?cat=57998> (last accessed 11 November 2019).

<sup>116</sup>- Alsumaria News (2018) Brother kills sister 'to wash away the shame' south of Kirkuk, Alsumaria News, 18 August 2018, available at: <https://www.alsumaria.tv/news/244933/> (last accessed 11 November 2019).

- According to Alsumaria News, the Baghdad police department announced on 30 September 2018 that “the detachments of the Baghdad police command-New Baghdad police station arrested a murderer who killed his sister and dumped her body on one of the main roads in the capital”.<sup>117</sup>

### ***Human Trafficking Linked to Sexual Exploitation of Women and Girls in Prostitution***

- A sociological field study conducted in Baghdad from July 2013 to January 2014 documented the prevalence and expansion of cases of exploitation and trafficking in girls and women. The researcher interviewed 20 women and girls aged 15 to 30, who work as sex workers after they were sold and trafficked by different people. This sample, according to the researcher’s observation while touring brothels in the city of Baghdad, represents a very small percentage, and is hardly comparable to the true number of women and girls who have been exploited and trafficked. Most of the girls in the study sample had escaped their home without identification papers. Pimps provide them fake identification papers to sell them outside of Iraq. The study provided evidence of secret sales and purchases of girls outside the control of security institutions, although the researcher confirmed that most pimps have connections with members of security forces. Some of the girls were sold by a family member (mother, father, brother). A girl’s price may rise, according to age and virginity, to thousands of dollars. Among the main reasons why women, especially girls under the age of 18, are trafficked and sexually exploited, are discrimination, denial of rights and domestic violence. The fear of the family’s violent reaction, which could reach murder, forces victims to flee their homes.<sup>118</sup>

- A UNAMI report mentioned several cases of sexual violence women and girls, including trafficking, sexual exploitation and honour killings. On 30 January 2014, UNAMI interviewed a 19-year-old woman who was being held in Basra’s Al Maqal prison on charges of prostitution. She said that her father forced her into prostitution. The chief of the brothel was arrested with the girl, but the police released him the next day. During UNAMI’s meeting with the director of the Human Rights Office of the Basra police, the latter stated that “his office did not receive clear instructions or administrative guidance from Baghdad on how to deal with this case or similar cases”. He also explained that his office had been sending monthly reports to Baghdad on these issues but had “not received instructions on how to proceed”.<sup>119</sup> Other cases monitored by UNAMI indicated that legal and judicial responses in Iraq are not enough to confront such practices. When the family of a 14-year-old abducted girl rejected the court’s request for a marriage between the victim/the abducted girl and the perpetrator - who had consented to the marriage to avoid punishment - the court convicted the perpetrator of sodomy. The charge of abduction was revoked, and the perpetrator was convicted under Article 394(1) of the Penal Code. A second incident cited in the same report was the abduction of two 14-year-old twin girls, but the perpetrator was acquitted by the judge for lack of evidence. In the Kurdistan Region, 75 incidents of sexual assault were recorded in 3,503 reports of domestic violence filed before police stations and regional judicial authorities. UNAMI also mentioned the horrific murder of a 15-year-old girl on 23 May in the Kalakchi region of Duhok. According to the autopsy report, the girl died after being shot 15 times by her 45-year-old husband, who claimed to have killed her for honour-related reasons.<sup>120</sup>

<sup>117</sup>- Alsumaria News (2018) Murder of a girl uncovered by Baghdad police: murderer is her brother, Alsumaria News, 30 September 2018, available at: <https://www.alsumaria.tv/news/248713/> (last accessed 11 November 2019).

<sup>118</sup>- Karim al-Sayid, A. (2017) Trafficking in Women: Sociological Field Study in Baghdad, published master's thesis, Adnan Publishing House and Library, Baghdad, Iraq.

<sup>119</sup>- United Nations (2014), “Report on Human Rights in Iraq: January - June 2014”, available at: [https://www.ohchr.org/Documents/Countries/IQ/HRO\\_Jan-Jun2014Report\\_ar.pdf](https://www.ohchr.org/Documents/Countries/IQ/HRO_Jan-Jun2014Report_ar.pdf) (last accessed 11 November 2019).

<sup>120</sup>- United Nations (2014) Report on the Protection of Civilians in Armed Conflict in Iraq: 11 September-10 December 2014, United Nations Assistance Mission for Iraq and Office of the High Commissioner for Human Rights, available at: [https://www.ohchr.org/Documents/Countries/IQ/UNAMI\\_OHCHR\\_POC\\_Report\\_11Sep-10Dec2014\\_AR.pdf](https://www.ohchr.org/Documents/Countries/IQ/UNAMI_OHCHR_POC_Report_11Sep-10Dec2014_AR.pdf) (last accessed 11 November 2019).

- In August 2015, the Rapid Assessment Report on the Worst Forms of Child Labour in five governorates, written by a team from the IAA in collaboration with UNICEF and the Ministry of Labour and Social Affairs, revealed that the trafficking and sexual exploitation of girls is widespread in Kirkuk. The narratives of 17 girls aged between 15 and 17 indicated that these girls were under the authority of pimps (male and female), and that some of them did not have the freedom to move or leave the place where they were being held. They were forced to have sex from 7 p.m. to 5 a.m. In addition to the long working hours, they were subjected to rape, violence, beatings, and threats of the use of weapons by clients and pimps alike. The money that the pimps collected from customers went to their own accounts, while the girls receive only 10-15 per cent. In some cases, girls did not receive any wages, working only in exchange for housing and food. All the girls had been victims of discrimination, violence or child marriage, which forced them to flee their homes. The report found that the power of security forces to prevent the trafficking and sexual exploitation of girls is virtually nil. This may be due to the clandestine nature of such violations, or to police complicity for instance, as some pimps claimed that they bought off the silence of police officers by allowing them to have sex with the girls for free. Therefore, the police do not have the power to prevent the trafficking and sexual exploitation of girls.<sup>121</sup>

### ***Forced or Early Marriage, Exchange Marriages and Sexual Harassment without Legal Accountability***

- A study conducted on a sample of 4,265 marriages in various governorates<sup>122</sup> found that more than one third of marriages were done out of court, 22 per cent of which were marriages of girls below the age of 14 (these cases require the presence of a medical committee if they are registered in court).<sup>123</sup> Another study estimated that in some areas of Baghdad, 80 per cent of marriages are done out of court, as confirmed by a report issued by the Ceasefire Centre for Civil Rights and Minority Rights Group International.<sup>124</sup> This report also included the results of another study that found that girls below 12 were sometimes forced into two or more marriages. A Baghdad-based organisation confirmed that in some cases, 12-year-old girls were married off two or three times.<sup>125</sup>
- Data collected in a study conducted in seven Iraqi cities<sup>126</sup> from February 2014 to May 2015, reported 1,249 cases of domestic violence against women and girls and confirmed that the perpetrators' identities were known to the victims. Among these were several cases of forced and early marriage, honour killings, and FGM. In addition, researchers found that 54 per cent of 111 cases of forced or early marriage involved women or girls who were illiterate or had only completed primary education (ninth grade). The study also revealed that customs, culture and tribal traditions are among the main reasons for the persistence of forced and early marriage, as they account for 85.6 per cent of the cases. Women and girls continue to be used to settle disputes between tribes, particularly in cases of murder. In tribal customs, in order to prevent further conflict or retaliation, a woman from the killer's tribe is sometimes forced to marry a member of the aggrieved tribe as a form of compensation, which is known as a '*fasliyah*' marriage. The study also uncovered 39 cases of sexual abuse, including marital rape, sexual harassment, incest and forced prostitution. The General Directorate of Combating Violence Against Women in the Kurdistan Region received 214 reports of sexual violence between January 2014 and June 2015.<sup>127</sup>

<sup>121</sup>- Iraqi Al-Amal Association (2015) Rapid Assessment Report on the Worst Forms of Child Labour-Republic of Iraq, in collaboration with Ministry of Labour and Social Affairs and with the support of UNICEF, available at: <http://www.iraqi-alamal.org/uploads/pdf/2016/15-06-2016.pdf> (last accessed 11 November 2019).

<sup>122</sup>- Namely, Baghdad, Basra, Dhi Qar, Al-Muthanna, Maysan, Babil, Al-Anbar, Diyala, and Mosul.

<sup>123</sup>- Legal Clinic Network (2015), Survey on out-of-court marriage - Legal Clinic Network Defence Committee in Baghdad-Iraq in 2014-2015, available at: <https://bit.ly/2WvQ9oy> (last accessed 11 November 2019).

<sup>124</sup>- Puttick (2015a), *supra* note 51.

<sup>125</sup>- *Ibid.*, citing Model Iraqi Women's Organization.

<sup>126</sup>- Namely Baghdad, Basra, Duhok, Erbil, Kirkuk, Mosul, and Sulaymaniyah.

<sup>127</sup>- Puttick (2015a), *supra* note 51.

- According to the 2012 I-WISH survey,<sup>128</sup> 33 per cent of men believed they have the right to force their daughters to marry before the age of 18.
- An 18-year-old girl committed suicide in the Zubair district, west of Basra, on 1 December 2017. The victim hanged herself by a rope that she had tied to her bedroom's ceiling fan. Security sources said the suicide was to 'protest' her forced marriage by her family to a man she did not want, so she committed suicide one day before her wedding.<sup>129</sup>
- On 31 December 2017, a judicial source revealed that Personal Status courts in Basra Governorate registered 21,222 marriages in 2016, including 1,528 marriages of 15-year-old girls.<sup>130</sup>

### ***ISIS Commits Sexual Crimes and Violations Against Muslim and Non-Muslim Women and Girls***

- A survivor from the Rabia district of Mosul spoke about the sexual violence to which she was subjected at the hands of ISIS terrorists: "On 6 August 2014, ISIS arrested my husband because he was a member of the Iraqi Army. We did not hear from him for two months. I was living in the house of my husband's family, and I tried repeatedly to find out where he was. I asked someone in the area who was in ISIS and nicknamed 'the emir'. He told me that they had killed him because he was an infidel. Two months later, I got a call from an unknown number, and I was surprised to hear my husband's voice. He told me that he was alive, as he managed to escape ISIS and would flee to Syria. I told my husband's family the good news, but our joy ended when ISIS surrounded the house in which we lived because they suspected that my husband would visit us. After two days under siege, I was kidnapped along with my son and led to an ISIS house, where they detained me until my husband showed up. They deprived me of food and water. My son would cry from hunger. They would insult and curse me all the time, because my husband is a traitor and works with the Iraqi Army. I couldn't bear it. When I screamed that my son will die of hunger and thirst, an ISIS fighter came and beat me, then raped me: it was the hardest moment of my life. I remained in that situation for a week. I was raped five times and harassed dozens. I learned that my husband had turned himself in in exchange for our release. I got out of the ISIS prison with my father and my father-in-law and went home. My husband tried to escape again and managed to kill two ISIS fighters while escaping, but they caught him, killed him, and hung his body on a bridge. I couldn't tell my family or my husband's parents what happened to me, as we live in a tribal area, which means that honour killing awaits me".<sup>131</sup>
- A report issued by UNAMI and OHCHR stated that an ISIS-appointed court ordered the abduction of 13 Sunni Arab women from different parts of Mosul due to their refusal to marry ISIS fighters. On 13 March 2015, ISIS groups killed nine Shiite Turkmen widows whose husbands had been killed by ISIS in the village of Qara Quean in Ninawa because they refused to marry ISIS fighters. Girls who refused to convert to Islam or who did so but refused to marry/have sex with ISIS fighters were threatened and violently assaulted. Some were reportedly killed.<sup>132</sup>
- On 3 August 2015, ISIS killed 19 women in Mosul for refusing to marry and 'have sex' with its fighters. An official in the Kurdistan Democratic Party (KDP) said that on 10 August 2015, ISIS honoured its fighters by gifting them the widows of the men they had executed to encourage them to continue fighting. On 21 June 2015, ISIS terrorist groups also gave 'enslaved' Yazidi women as prizes for the top three winners of the Qur'an memorisation competition held during the month of Ramadan.<sup>133</sup>

<sup>128</sup>- Iraq Women Integrated Social and Health Survey, known as the I-WISH Survey. See Puttick (2015a), *ibid*.

<sup>129</sup>- Al-Ghadeer Satellite Channel (2017) Girl in Basra commits suicide, Al-Ghadeer Satellite Channel, 1 November 2017, available at: <http://alghadeer.tv/news/detail/65541/> (last accessed 11 November 2019).

<sup>130</sup>- Alsumaria News (2017) In Basra, 1,528 Cases of Child Marriage Registered in 2016, Alsumaria News, 31 January 2017, available at: <https://www.alsumaria.tv/mobile/news/193748/iraq-news> (last accessed 11 November 2019).

<sup>131</sup>- Survivor, late 30s, married, from Rabia district in Mosul. The interview was conducted as part of the mapping exercise carried out for the purposes of this report (19 August 2017).

<sup>132</sup>- OHCHR and UNAMI Report (2015), *supra* note 104, p. 22.

<sup>133</sup>- *Ibid*.

- On 22 October 2017, a Shiite Turkmen survivor in Kirkuk told BBC Turkish about her capture by ISIS. She described the violence, abuse and torture she suffered at the hands of ISIS. She was living with her Sunni Arab husband in the Al-Alam district of Salah ad-Din Governorate when ISIS attacked the Governorate and Camp Speicher and killed about 1,500 soldiers. “My husband and I were in front of a mosque and tried to help some of those who escaped the Camp Speicher massacre, but ISIS found out that some of the soldiers were hiding in the mosque and killed them. They arrested my husband and I do not know anything about him since. They blew up my house after kicking me out and ordered me and female Turkmen teachers to leave. We had barely gotten out of the city when an ISIS group stopped us and took us to a parking lot along with other captive women from the area. They separated girls from married women, raped the girls before our eyes, including my eldest daughter. When I tried to defend them, one of the gunmen slapped me with violence. They took turns raping the girls, who were bleeding intensively and eventually fell ill one after the other; my daughter and some girls died.<sup>134</sup> With the help of an old man who was guarding us, I managed to escape along with my son, a little girl, and the son of a teacher who had died after being raped. The teacher’s son died in my arms while we were on the run. Five days later, I was able to reach Kirkuk. The parents of the girl who was with me refused to take her in, citing honour-related reasons. She had to go to Iran”.<sup>135</sup>

### ***Rape of Girls: Crimes that Provoke Public Opinion, Raise Families’ Fears***

- In September 2016, a 5-year-old girl was raped by a 29-year-old man in Karbala. A video recorded on a surveillance camera in the area showed how the perpetrator grabbed the child, threw her to the ground, covered her mouth, and raped her, then fled on his motorcycle. Although similar rapes had occurred, the families did not inform security services because the perpetrator was unknown, and the Karbala community is conservative, religious and sensitive to honour issues. After the perpetrator was arrested, witnesses said in a televised interview that many families whose children had been subjected to similar cases of abuse filed a complaint with the security authorities after the news of the perpetrator’s arrest. After complaints were filed by families, the perpetrator confessed to previous crimes of the same kind.<sup>136</sup>
- In August 2018, a security source in Dhi Qar Governorate reported that a 5-year-old girl had been raped by a young man in Nasiriyah city centre. As a result, the child was taken to the resuscitation department of the Al-Hussein Hospital in a critical condition.<sup>137</sup>
- In July 2018, a 9-year-old girl was raped by her aunt’s 43-year-old husband in the Tel Sebat camp. The rape took place inside the tent in broad daylight at 11 a.m., when the perpetrator took advantage of the mother’s leaving to fetch water from the bathrooms, which are relatively far from the tent. The child tried to scream and defend herself, but the perpetrator raised the volume of the TV and covered the girl’s mouth to prevent her from screaming. He left the tent after raping the girl, who was in excruciating pain.<sup>138</sup>

<sup>134</sup>- Alsumaria News (2015) ISIS survivor recounts to Alsumaria News rape of her daughter, bone-chilling acts, Alsumaria News, 26 December 2015, available at: <https://www.alsumaria.tv/news/155207> (last accessed 11 November 2019).

<sup>135</sup>- Hamsaji, M. (2017) Iraqi woman recounts monstrous rape incidents at the hands of ISIS fighters, BBC, 12 October 2017, available at: <http://www.bbc.com/arabic/middleeast-41595696> (last accessed 11 November 2019).

<sup>136</sup>- Al-Quds al-Arabi Newspaper, Shock in Karbala after uncovering rape of 5-year-old girl, Al-Quds al-Arabi Newspaper, 19 September 2016, available at: <https://bit.ly/2PAzOh4> (last accessed 11 November 2019).

<sup>137</sup>- Hatha al-Youm News, Parents of 5-year-old rape victim burn the house of her rapist in Dhi Qar, Hatha al-Youm News, 30 August 2018, available at: <https://bit.ly/2r0pqVu> (11 November 2019).

<sup>138</sup>- Personal interview conducted by PAX Programme Coordinator Dr. Najla al-Ghazali with the victim and her family, July 2018.

## ***Sexual Abuse Against Women and Girls After ISIS Expulsion***

- At the end of 2018, many child marriages were documented in the Hawija district by a lawyer and researcher working with an international organisation to provide psychological services and legal advice to women and girls in Hawija after the expulsion of ISIS. The lawyer stated that she had access to the court's marriage records and found that the marriage of girls was a widespread phenomenon in areas under ISIS control. There were even marriage contracts for girls who were under the age of 12 when they were married off. A girl who was born in 2005, got married in 2016, and had a child, came to court to register a new marriage contract, because the marriage contract was concluded in 2016 when the area was under ISIS control.<sup>139</sup>
- Families benefited from the 2016 Amnesty Law, which abolished the fine imposed on families who conclude out-of-court marriages. However, the lawyer said the marriage of girls in Hawija remained as prevalent as it was under ISIS control, as families benefited from amnesty at the legal level and no deterrent measures were taken by the court.<sup>140</sup>
- Another serious problem faced by women in Hawija was the use of girls to resolve tribal disputes, disputes between men and vexatious cases. A case was filed in court against a man on charges of belonging to ISIS. The man was asked by the complainant to 'give him' two of his daughters, aged between 11 and 13, to drop the lawsuit. In addition, as a result of intratribal marriage, many genetic diseases, including thalassemia, are common in the Hawija district. These marriages are usually concluded forcibly and under the threat of arms. Girls are not only under the father's authority, but also that of uncles and cousins. Even if the father refuses to marry off his daughter, he may be forced to do so by his brothers and their children under the threat of arms. The lawyer stressed that the wives of ISIS members face serious challenges and are exposed to various forms of sexual exploitation by their families and relatives, as well as harassment and sexual exploitation by security forces and armed groups protecting the area and in any government facility they visit. These women are sometimes forced into sexual bargaining to obtain certain services or the necessary protection to return to their areas whose inhabitants refuse their return.<sup>141</sup>
- Bent Al Rafedain Organization documented the situation of women and girls in displacement camps in Salah ad-Din Governorate between 2016 and 2017. Cases of rape, exploitation and sexual harassment were observed in the camps. Women's accounts have indicated subjection to sexual exploitation through sexual bargaining during the distribution of aid. The camp's all-male management exploited female breadwinners, particularly those who lost their husbands during conflict or displacement. The data confirmed that the reason for the persistence of violence and its danger on women in camps is the fear of reporting. Most of them remain silent, due to the lack of protection mechanisms or deterrent mechanisms that prevent violence.<sup>142</sup>

## ***Official Security Forces and Armed Militias Commit Sexual Abuse Crimes and Violations Against Displaced Women and Women in Conflict Zones***

- According to a UNAMI report released on 10 September 2014, sexual violence increased drastically in the Ninawa, Najaf, and Karbala Governorates. Pro-government Shiite militias stormed a house in Babil Governorate and raped a 20-year-old mother of two. Six women had been raped before in the same governorate, when Shiite militias surrounded the area as part of their military campaign to search for ISIS members.<sup>143</sup>

<sup>139</sup>- Lawyer from Kirkuk who works with an international organization to provide legal advice and psychological support to women and girls in Hawija district. The interview was conducted as part of the mapping exercise carried out for the purposes of this report (March 2019).

<sup>140</sup>- *Ibid.*

<sup>141</sup>- *Ibid.*

<sup>142</sup>- Al-Wafd Online (2017) Women escaping ISIS face rape and sexual harassment in Iraq, Al-Wafd Online, 29 April 2017, available at: <https://bit.ly/2JBOskg> (last accessed 11 November 2019). The data were verified personally in an interview with Mrs. Alia al-Ansari, Director of Bent Al Rafedain Organization (15 July 2019).

<sup>143</sup>- Puttick (2015b), *supra* note 95.

- An Amnesty International report issued on 17 April 2018 found that officials in the Iraqi security service, local government, and militias in charge of guarding internally displaced persons' camps had sexually assaulted a 'frightening' number<sup>144</sup> of displaced women and girls in the camps whose male relatives were suspected ISIS members. In the camps, women who became the breadwinners following their husbands' death or disappearance were repeatedly raped and subjected to other forms of sexual abuse, sexual exploitation and systematic discrimination, including bargaining for food, water and basic needs. The report noted the fragile situation of women most at risk of sexual exploitation by members of security forces, armed guards or militiamen who run camps or operate in their vicinity. The research even found that in all the camps covered by the study (eight in total), victims were coerced or pressured to engage in sexual acts with men in exchange for financial or humanitarian assistance or protection from other men. The report documented the testimonies of four women who said "they either witnessed rape directly or heard the screaming of women in a nearby camp who were being raped by armed men, camp management staff or other camp residents".<sup>145</sup> Dana, 20, told Amnesty International about the constant pressure she faced to have sexual relations with members of security forces in the camp by force, as well as her survival of attempted rape. She said: "Because they consider me an ISIS fighter, they will rape me and bring me back. They want to show everyone what they can do to me - take my honour".<sup>146</sup>

## Most Frequent SGBV Crimes from 2014 to 2018

From 2014 to 2018, women and girls in Iraq faced some of the most brutal forms of sexual violence and suffered greatly due to the armed conflicts that broke out during this period. The gender-based crimes perpetrated by ISIS were widespread and systematic, including abduction, rape and sexual enslavement and exploitation of women and girls, especially Yazidis. Thousands of women and girls were forced to marry ISIS fighters. Rampant sexual violence committed by ISIS in conflict areas led to widespread sexual violence crimes and violations in other governorates, including a significant increase in honour killings and rapes. Human trafficking became more organised for the purpose of sexual exploitation. The rape and murder of girls increased, and numerous child marriage cases were recorded. During this period, a relative change was observed in terms of recognising the existence of sexual violence against women and girls, as evidenced by the monitoring of sexual violence crimes and violations in the reports of local organisations and local media outlets and news agencies.

## Official Statistics on Crimes and Violations of Sexual Violence Against Women and Girls

- Statistics issued on 22 January 2015 by the Ministry of Interior-Al-Baya' police station<sup>147</sup> and addressed to the Widows Training and Development Centre, showed that in 2013 the centre registered two rape cases, one honour killing, one abduction, and one case of forced prostitution. In 2014, one abduction and case of forced prostitution were registered.

<sup>144</sup>- Deutsche Welle (2018) 'Women of ISIS': New victims of sexual violence crimes in Iraq, Deutsche Welle, 17 April 2018, available at: <https://www.dw.com/ar/> (last accessed 11 November 2019).

<sup>145</sup>- Amnesty International (2018) Iraq 2018, available at: <https://www.amnesty.org/ar/countries/middle-east-and-north-africa/iraq/report-iraq/> (last accessed 11 November 2019).

<sup>146</sup>- *Ibid.*

<sup>147</sup>- Ministry of Interior's Police Affairs Agency, Directorate-General of Baghdad Governorate Police, issue number 1,096.



- The 2015 annual report of statistics and activities of the Kurdistan Region’s Directorate-General to Combat Violence Against Women showed that 124 cases of sexual violence against girls were registered in the region. In 2016, the number of such cases reached 115. The 2017 report of the Directorate provided detailed information on sexual violence cases, which amounted to 143. It reported that in 70 per cent of the cases, sexual violence was perpetrated against single women between the ages of 16 and 20. Sexual violence cases were most common against women with a low educational level, illiterate women and housewives. According to the statistics, sexual violence is also more common in cities, as it increases by 51 per cent compared to villages and rural areas. More than half of the cases (56 per cent) end with the aggressor escaping or without the issuance of a verdict.<sup>148</sup>
- According to official statistics published on the official website of the High Judicial Council, between mid-2018 and 2019, 80 children (male and female) were subjected to sexual assault in the Babil Governorate.<sup>149</sup> Sixty-five cases were filed in juvenile, felony and misdemeanour courts in the governorate (some of which are still under investigation), according to the Statistics Department of the Federal Court of Appeals of Babil. In 2018, 17 cases were filed before the Criminal Court<sup>150</sup> and 16 cases of sexual abuse of children before the Juvenile Court (20 defendants). Judge Habib Ibrahim, Deputy President of the Court of Appeal, said: “These figures do not reflect the actual number of child sexual abuse cases, as traditions, customs and fear of scandal bury many cases and keep other violations secret. [...] Such cases reach the courts reluctantly. Most of them are resolved in tribal meetings and family negotiations in which the rights of child victims are wasted under the pretext of fear of scandal”.<sup>151</sup>
- On 5 May 2019, the Widows Training and Development Centre obtained statistic No. 4,760 of the Planning and Statistics Department of the High Judicial Council, which indicated that in 2018, 36 cases of marital rape<sup>152</sup> were resolved in all provincial Courts of Appeal. The number of incest cases was also 36. A 2018 statistic on sexual violence against children<sup>153</sup> confirmed the occurrence of 351 sexual violence cases against children but did not provide detailed information on the victims’ genders and ages or the types of crimes or violations.<sup>154</sup>

<sup>148</sup>- Ministry of Interior’s Directorate-General to Combat Violence Against Women (2016, 2017, and 2018).

<sup>149</sup>- Al-Fatlawi, M. (2019) Babel: 80 children victims of sexual abuse in one year, High Judicial Council, 21 April 2019, available at: <https://www.hjc.iq/view.5442/> (last accessed 11 November 2019). Hereafter: Al-Fatlawi (2019).

<sup>150</sup>- Twenty defendants were sentenced; one to death, one to life in prison, and the remainder to 15 years in prison.

<sup>151</sup>- Al-Fatlawi (2019), *supra* note 149.

<sup>152</sup>- The drafting team was unable to ascertain the origin of the legal text based on which judgments were issued in cases of marital rape. The official in charge refused to share the judicial decisions and asked us to submit another formal request to obtain them, which would require a longer period than the period allocated to the drafting of the report.

<sup>153</sup>- No. 3278 issued on 27 March 2019 by the Planning and Statistics Department of the High Judicial Council.

<sup>154</sup>- See High Judicial Council, Letter of the Planning and Statistics Department/Public Relations and Legal Affairs No. 3278 issued on 27 March 2019. See also, High Judicial Council, Letter of the Planning and Statistics Department/Public Relations and Legal Affairs No. 4760 issued on 5 May 2019.

## Sexual and Gender-Based Violence in Iraq: Roots and Structural Causes

The causes of SGBV are not limited to any one specific factor or circumstance. Their roots are rather more structural, influenced by multiple variables operating at different times that affect the daily lives of women, especially during and after conflicts. Analysing the gender-based nature of violence against women and girls requires a focus on the cognitive resources of individuals, through which their gender perceptions/orientations are shaped. Society relies on socialisation to determine the role and position of men and women in social structures. Through a long-term socialisation-based process of identification with gender values and norms, violent practices become part of the individual self-building process. Violent practices and sexual violence against women are a corollary of interconnected discriminatory practices against women throughout their life cycle that are often subtle and indirect. Understanding structural variables at the societal and individual levels helps us determine how violence-tolerant cultural and social practices persist in specific historical and structural contexts.

The focus group discussions held in the four governorates in March 2019 raised many different topics on the causes of violence and sexual violence against women. These topics intersected in key themes that participants said fuel the ongoing violence against women in Iraq. The absence of a law criminalising violence is directly linked to the nature of the socialisation process, which determines the status and stereotypical gender-based roles of women within the family and educational institutions, all of which affect the performance of the security institution responsible for law enforcement. All these reasons constitute an integrated system that the state played a central role in maintaining over the past few decades. These reasons are still treated with leniency and tolerance by the political elite in power since 2003. Understanding the multiple factors that lead to violent behaviour in general and certain forms of violent behaviour against women in particular is critical to the development of effective prevention strategies.

### The Role of Law and Punishment in Combating Sexual Violence

One activist spoke about the reasons for the persistence of sexual violence against women, saying: “The most important thing is the existence of a law. Despite the previous regime’s tyranny, there were not as many cases of violence. People were afraid; there was a law that was applied to everyone”.<sup>155</sup> The importance and role of the law in curbing violence against women and girls was a recurring topic in all of the focus group discussions held in Basra, Baghdad, Kirkuk, and Salah ad-Din. Participants agreed that social change is achieved through a top-down strategy, by applying changes to regulations and laws. A top-down approach has many advantages that can force people to change the way they behave, since the fastest way to change attitudes and standards is by changing procedures and programmes. The law can send a clear message to society that violent behaviour is unacceptable.

The women who participated in the discussion groups said that the lack of legislation that specifically criminalises violence and amendments to existing laws are among the main reasons for the persistence of violence against women. One of the participants, a media activist, said: “The lack of amendments to laws such as the Personal Status Code is the cause of violence. Even the amendments introduced by the previous regime did not protect women, their dignity, and their presence: they were related to the orientation of the party and the revolution. We want amendments that take into account the calls currently made by CSOs to ensure real respect for women. Is it normal that we live in the 21st century but still have ‘*nahwah*’ marriages [custom that allows men

<sup>155</sup>- Activist and president of CSO, Basra. The interview was carried out as part of the study conducted for the purposes of this report (4 March 2019).

to forbid a female relative from marrying a man from another tribe and force her to marry a relative] and honour killings? Is it normal for a judge to sympathise with a man who murders his sister or mother? This is a crime classified as premeditated murder, but where are the laws that prevent them?"<sup>156</sup> A young activist and lawyer objected to the Iraqi Government's Penal Code enacted in 1969: "Is it normal that a 50-year-old law still gives the right to someone close to me, such as my father, brother or husband, to discipline me? I cannot imagine committing to someone who disciplines me! On what basis does the law give this right to a man? The situation at my grandmother's time is completely different from my situation now; everything has changed".<sup>157</sup>

However, passing laws alone is not the solution to end violence against women and girls. Raising awareness, preparing society, and establishing accountability mechanisms that are independent of the state's authority must precede the passage of any law. A cleric who participated in the discussions said: "I believe that any law would be futile if not accompanied, or rather preceded, by comprehensive awareness campaigns for all people. Iraq has a huge amount of laws, but what is their use? We have been hearing about the enactment of a law since 2003, but what has changed? Nothing. Awareness about the law comes before the law itself. Another important thing is accountability mechanisms and the enforcement of laws. We are going through a critical period marked by great corruption in the state. Favouritism is preventing punishment for the corrupt because of the existing quota system. Every government official is affiliated with a certain party, and the party protects the criminal or violator at the expense of public right. We must think of accountability mechanisms that resemble union systems, for instance. Unions are closer to people and can defend them. A director-general can make deals with a minister at the expense of the simple worker, but a strong union can prevent such violations and protect workers' rights".<sup>158</sup> Raising awareness in a random and general manner is also futile. Awareness campaigns should be directed at the target group, namely women and girls, according to a media professional, who added: "What use is the law if young girls, teenage girls, and women are not familiar with it? We can integrate some awareness materials for girls in school curricula at all levels, so they become aware of violence forms and practices that they may face now or in the future".<sup>159</sup>

The discussions confirmed that solid legislation that recognises the rights of women who survived violence is a prerequisite. However, the gap between law and practice is often a key obstacle to implementation, hence the need to bridge the gap between law and practice and focus on enforcing the law and ending impunity by strengthening accountability mechanisms in order to follow up, evaluate, and enforce the laws that prevent and forbid violence against women.

Additionally, the penalty must correspond to the scale of the violation. It is difficult for girls and women to prove sexual harassment before the law, and if proven, the punishment or measures taken against the perpetrator are often not appropriate. This is what a university professor said while recounting the story of a female student's harassment in the university and the way the university's administration handled it. She said: "There are numerous cases of harassment by professors in universities. Once, a professor who was head of department harassed a student. This harassment was not only verbal, as he also pressured her and made bargains. The student filed a complaint against him to the deanship in the presence of witnesses. He was punished, but can you imagine what his punishment was? Demotion to head of a research centre! In the committee's eyes, this demotion was considered an appropriate penalty for sexual harassment!"

<sup>156</sup>- Activist and journalist, Basra. The interview was conducted as part of the mapping exercise carried out for the purposes of this report (4 March 2019).

<sup>157</sup>- Activist and lawyer, Baghdad. The interview was conducted as part of the mapping exercise carried out for the purposes of this report (20 March 2019).

<sup>158</sup>- Cleric, Basra. The interview was conducted as part of the mapping exercise carried out for the purposes of this report (4 March 2019).

<sup>159</sup>- Lawyer and activist, Basra. The interview was conducted as part of the mapping exercise carried out for the purposes of this report (4 March 2019).

The members of the investigation committee were from the university, from the same institution, and obviously sympathised with the professor over the student. In my opinion, universities are a sensitive and dangerous place in terms of educating young men. What message did this incident send to male and female students? Young men learn that violence against women is tolerated, and women learn that filing a complaint will not grant them safety, reparation or justice”.<sup>160</sup>

One Yazidi activist cited the same reasons for women’s reluctance to report cases of sexual violence. In her opinion, the law does not do women justice. Even if they file a complaint, what protection do they get? She stressed that the only way to protect women is for the state to enforce the law: “The state clearly neglects the issue of curbing violence against women. Despite the genocide of the Yazidi community and the abduction, rape, and murder of Yazidi women, the government has made little effort in this regard. There is negligence in follow-up on the abductees’ files. There are still abductees in many cities: Mosul, Chamchamal in Sulaymaniyah, and Fallujah. If the government conducts a thorough and comprehensive security check, they can find these victims. The abductors use terror and fear with them, for instance, telling them that their families will kill them if they try to escape”.

Other participants agreed on the importance of enforcing the rule of law and overseeing its implementation, as the systematic failures of police personnel and judicial officials put women and girls at risk of violence and prevent access to justice. However, trying to reduce violence against women and girls by simply focusing on prosecuting perpetrators may not quickly lead to the desired results. It is necessary to define the limits of convictions and the use of penalties and deterrence to reach prevention. Legal action must be combined with prevention efforts by addressing the social and psychological motives of violence, particularly in conflict and post-conflict situations.

## **Institutions Combating Sexual and Gender-Based Violence**

### ***Law Enforcement Institutions***

The role of the police as the first responder to reports and complaints of SGBV filed by women is crucial, but the discussion groups criticised the ineptitude and lack of seriousness of some front-line police officers responsible for providing direct services to victims for several reasons, including some officers’ poor knowledge of the concept of SGBV and the dismissal of domestic violence as unimportant or as a private matter. In addition, some officers are convinced that women need ‘hard evidence’ of physical violence for the police to respond. Moreover, many police officers lack basic training and necessary equipment for evidence collection and investigation, which affects the progress of legal proceedings and trials of cases of violence against women and girls. This situation has made victims reluctant to report cases of SGBV. The number of cases of violence reported to police stations represents a very small percentage of actual incidents, hence the lack of accurate statistics on SGBV in Iraq.

Some discussions revealed that law enforcement institutions are sometimes considered to be part of the problem instead of the solution. The poor performance of the security institution is one of the reasons why SGBV remains widespread. In certain situations, police officers are the ones who commit violence, as confirmed by a lawyer participating in the discussion groups, who works in a centre that provides psychological and legal support to women. She spoke about her personal experience and how she was personally harassed by a police officer who was checking her identification papers in a security control operation in a governorate that was under ISIS control. Since she is a lawyer and knows the procedures, she decided to file a complaint against him.

<sup>160</sup>- University professor, Kirkuk. The interview was conducted as part of the mapping exercise carried out for the purposes of this report (24 March 2019).

During the discussion groups, she stated: “I expressed my annoyance with his behaviour in front of people. He is a policeman and should not have behaved that way with me. Some people around me were troubled by my reaction when they found out what had happened: how could a young woman like me raise such a sensitive ‘disgraceful’ and ‘simple’ subject? Everyone told me to close the case because I am a young woman and it will affect me negatively, but I decided to carry on with the complaint. At every stage of the complaint submission process, I heard the same thing from officials: ‘Why are you raising such a sensitive subject? The results will be negative’. Then I reached the operations commander, who greeted me with the same rhetoric, saying the subject is simple and not worth filing a formal complaint, but I stuck to my decision. In the end, the policeman who harassed me was given a one-week detention penalty, and frankly, I’m not sure the punishment was enforced. It took me all day to file the complaint. I went home and did not finish what I had come for. This was the first time I submitted a complaint. I was surprised by the complexity of the procedures and the reaction of police officers, which resembled that of their supervisor”.<sup>161</sup> Other women present during the discussion groups subsequently recounted their stories about the security institution’s performance regarding violence against women and girls.

The challenges and difficulties that women face are not only gender-related, but transcend the boundaries of race, ethnicity and class. The gender factor is connected to other interrelated forms of social discrimination (religious, ethnic, political, economic, etc.), as confirmed by a participating activist who had handled files of housekeepers and domestic workers. She documented numerous violations against foreign female domestic workers, including from Ethiopia and Uganda. Rapes were committed in police cars and detention facilities. The condescending attitude of police officers toward these women while under police protection amounted to harassment: “When I was handling the case of a Ugandan worker at a police station south of Baghdad, the girl told me that a police officer harassed her. He allowed himself to use his authority to harass or rape this poor girl who was under his protection. He knew that she is a poor foreign houseworker who cannot defend herself. When I told the officer in charge about the harassment of a woman by a policeman, he was surprised!”

The discussions also addressed the institutional and human capacity of security institutions and their ability to respond to the needs of survivors. Survivors’ and society’s perceptions of and trust in police and security personnel are influenced by the latter’s response to cases of violence against women. The quality and level of response also affect the decisions of women and their families and communities to use the services of the police and cooperate with them. Now, women and their families turn to other entities for protection or services; usually, a customary authority (tribal, religious) that tends to deal with violence against women and girls from the traditional perspective of authority and gender inequality. In general, there is not enough police personnel dedicated to the protection of victims. Instead, the police’s efforts go toward protecting certain groups or individuals with authority, either within society and within the state.

Another issue raised in most of the discussions is the importance of having an appropriately trained female police force in charge of receiving survivors and providing direct services to them. Women are better able to report cases of sexual violence if there are women working in security institutions. When women report cases of rape to male police officers, they are often revictimised. A member of a local council in Kirkuk insisted that the existence of a women’s police department hinges on having training as a prerequisite: “The existence of a female police force is very important as it helps survivors report their abuse. SGBV is a sensitive topic, so having a woman hear them instead of a man reduces fear and hesitation. Unfortunately, the few female police officers in service

<sup>161</sup>- Activist and lawyer who works in a centre that provides support to women survivors, Baghdad. The interview was conducted as part of the mapping exercise carried out for the purposes of this report (20 March 2019).

often adopt a misogynistic perspective and treat abused women the way male officers do: blame, disinterest, and focus on reconciliation, which often goes against the survivor's interest and safety. Currently, female police officers are no different than their male colleagues. Training and appointing qualified women police officers who have university degrees and are trained to deal with survivors is crucial."<sup>162</sup>

Discussions were not limited to the role of the police in the poor response to cases of sexual violence against women, but also tackled the shortcomings of the judiciary and public health institutions in terms of performance, methods of handling SGBV, and the procedures followed. The judiciary plays a key role in the response of the law to curb SGBV. Judges usually have the last authority on civil and criminal cases that involve violence against women and girls and can issue effective judicial sentences for sexual violence crimes that guarantee safety for the victim and accountability for the offender. However, these decisions and choices may be influenced by some traditional SGBV-related concepts espoused by the judges themselves, which increases the risk of non-disclosure and non-reporting of cases of violence by women. The group discussions indicated that the judiciary is often subject to traditional norms, culture and customs, particularly when dealing with cases and crimes of sexual violence. The story of Laila,<sup>163</sup> who survived ISIS captivity, raised major questions about the judiciary's performance amid the exceptional circumstances of women and girls in some governorates that saw conflict, like Mosul: "After the abduction of 15-year-old Laila from the village of Kojo by ISIS gangs on 3 August 2014, she was sold three times. The third time was to a man from Mosul called Abu Aisha, who beat and raped her daily. After a while, Laila became pregnant with Abu Aisha's child, and because he is married and has no children, he took her home after concluding a marriage contract before a cleric (mullah), under which she became his 'legitimate' wife. Laila gave birth to a daughter and stayed with Abu Aisha's family for two years. She was completely prohibited from going out, and if she needed medical attention or a doctor's visit, she would go with Abu Aisha himself or his mother after putting a face cover. She was forbidden to talk to anyone. After the liberation of Mosul in 2017, Iraqi security forces arrested Abu Aisha. When Laila appeared before the judge with Abu Aisha, Abu Aisha showed the marriage contract and acknowledged that he is the father of the child, so the judge sentenced him under Article 427 of the Penal Code (111): 'If a valid marriage is made between the perpetrator and the victim of one of the crimes contained in this chapter (Chapter on detention and kidnapping of persons), the proceedings, investigations and other procedures shall be suspended. If a verdict had been handed down, the execution of the sentence shall be suspended'. For this judge, Laila's story has a happy ending, since a marriage contract was annulled".<sup>164</sup>

Laila's case is an example of the impact of traditional gender perceptions on judges in the handling of cases and crimes of sexual violence against women and girls. The case also proves the law's failure to understand circumstances and contexts under ISIS control, which produced new justifications and forms of sexual violence. ISIS fighters describe their rapes as marriages concluded according to the 'Book of Allah and the Sunna of His Messenger'. Since Iraqi law appears to be in line with contemporary societal norms and ignores the intention of coercion and force in this marriage, and given women's lack of autonomy, ISIS fighters get immunity for the thousands of rapes they committed against not only Yazidi women but Muslim women and girls as well.

<sup>162</sup> Member of a local council, Kirkuk. The interview was conducted as part of the mapping exercise carried out for the purposes of this report (24 March 2019).

<sup>163</sup> The story was recounted by a Yazidi activist who works with an international organisation, Mosul. The interview was conducted as part of the mapping exercise carried out for the purposes of this report (March 2019).

<sup>164</sup> Yazidi activist and researcher, Sinjar. The interview was conducted as part of the mapping exercise carried out for the purposes of this report (9 August 2017).

Another key topic raised during the discussions was the importance of the existence of a referral system, and the procedures followed by health institutions to facilitate the detection of sexual violence, provide support, services and first aid, and document evidence. In any referral system, the health institution plays a key and pivotal role in providing first aid and documenting evidence of violence against women. However, the participants' accounts about the current procedures followed by health institutions and the personnel's training level portend a real disaster in terms of the violations and abuses committed specifically against women who are victims of sexual violence. Questioning the victim's statements and stigma accompany her at every stage of routine procedures. One activist, a university professor from Salah ad-Din Governorate, described how a young rape victim was violated during her medical examination: "I once documented the rape of an 8-year-old girl by her aunt's husband in a camp in Salah ad-Din. The child's family filed a complaint against the perpetrator and the police referred the child to the hospital for a medical examination. There, a real disaster took place. I was there when the child was examined: one could say she was raped again! She was scared, screaming and trembling when the nurses forcibly opened her legs so the doctor examines her. I couldn't handle it. It was a second rape of the child!"<sup>165</sup>

An activist from Baghdad confirmed these facts and how the poor referral system leads to another violation of the victim, which is why survivors are reluctant to report violence: "My 9-year-old niece had an accident while playing at home that resulted in a genital injury. We decided to treat her in the hospital, but the hospital's administration refused to conduct a medical examination until we report the incident to the police, because the injury is in a sensitive area. We were surprised by the hospital's request and complicated procedures, but there was no other option, so we went to the police station, confused as to how to go in there with the child bleeding. I tried my best to convince the officer to hand me the paper without getting the child into the police station. It took me a long time to convince him that she had an accident while playing. Then, we went back to the hospital and the child was in pain and confused, wondering what happened, because nearly all the hospital staff was talking about the child injured in a sensitive area. The news spread throughout the hospital. It was a painful experience for us and for the child. I can't imagine what happens to women or girls who have actually been sexually assaulted, with such unqualified medical staff and complex and insensitive procedures".<sup>166</sup>

The discussion groups agreed that reporting SGBV is the first and most important step to curb violence, and that this can only be achieved through a referral system that protects victims from abuse and ensures that they are not exposed to additional risks with any interference.

## ***Formal and Informal Socialisation Institutions***

### ***Family***

"Violence against Yazidi women started at home. Yazidi women were already suffering from domestic violence, so it's no wonder that we were subjected to violence by ISIS."<sup>167</sup> This was the answer of an activist of the Yazidi community in response to her perception of the causes of violence against Yazidi women. According to her, the denial of fundamental rights is at the root of violence: "We were living deprived of our basic rights. Most girls were denied education and were not allowed outside the house. We do not know what's outside the house. We were isolated from the outside world. Do you know what the kidnapped women and girls who recently escaped ISIS captivity told us? They said: 'If we knew how to read, write, use mobile phones and social media,

<sup>165</sup>- University professor and activist, Salah ad-Din Governorate. The interview was conducted as part of the mapping exercise carried out for the purposes of this report (14 December 2019).

<sup>166</sup>- Activist working with CSO, Baghdad. The interview was conducted as part of the mapping exercise carried out for the purposes of this report (20 March 2019).

<sup>167</sup>- Yazidi activist. Bashiqa district, Mosul. The interview was conducted as part of the mapping exercise carried out for the purposes of this report (26 March 2019).

we would have managed to escape shortly after we were kidnapped. ISIS fighters used to leave their mobile phones near us, but we didn't know how to use them!" The high illiteracy rate among Yazidi women and girls is due to structural reasons. The scarcity of schools in rural areas compared to major cities is a problem that the previous regime did not care about or address even in the height of the development periods in the 1970s. No serious action was taken to address it after the fall of the regime in 2003 either. In addition, some Yazidi families refrained from sending girls to distant schools for fear of their assault or harassment by Muslims.

Most of the participants in the discussions agreed that the underlying causes of violence, including SGBV and discrimination against women lie in the cultural orientations, concepts and expectations of the roles and status of women and girls in society, which are inferior to the roles and status of men. These orientations are learned within the family, which is where all forms of socialisation begin. These cultural orientations and concepts are consciously and unconsciously imposed on males and females alike.

Cultural standards in Iraq include a gender-based system that justifies and legitimises violence and sexual violence. For example, the traditional belief that men have the right to control or discipline women through physical means. But the cultural belief in men's right to discipline women is tantamount to political violence (before it is considered cultural violence), since the Iraqi state still refuses to change Article 41 of the Penal Code, which legitimises the man's use of violence in the family. The tolerance of violence is political before being cultural, including sexual violence, which is regarded as a private family affair. This hinders and prevents external interference and prevents victims/women from speaking up and obtaining support.

### *Educational Institutions and the Dilemma of Sex Education to Reduce Violence*

Despite the differences in their ages, all participants agreed that educational institutions cannot be isolated from the existing culture, traditions, customary standards, laws, and government policies. Educational institutions legitimise and promote harmful gender norms and pave the way for a violent environment inside and outside the classroom through authoritarian teaching methods or corporal punishment to control students' behaviour, which in turn reinforces power inequality between teachers and students. This is where educational institutions play a key role in supporting violent behaviour against women and girls.

The discussions identified three main areas through which educational institutions may promote gender norms: curricula, gender-based segregation, and sex education. The Ministry of Education has made many changes to the curricula, but the content of some subjects continues to promote violence and discrimination against women. This was asserted by an activist from Basra: "There are many subjects that carry direct or indirect notions of violence and discrimination against girls, unfortunately. Curricula can be used differently, by pushing toward equality and the empowerment of girls, instead of promoting traditional gender roles and girls' inferiority to boys".<sup>168</sup>

A large part of the discussions in Basra, Baghdad, and Kirkuk was devoted to the issue of gender-based segregation as a cause of sexual violence against women that can become a key solution in the future. In Basra, a medical student raised the issue of gender-based segregation as a key issue from young men's point of view: "One of the main reasons for the existence and persistence of sexual violence is the segregation of girls and boys in primary, middle and high school. When a young man reaches university and meets girls, a kind of unbalanced relationship arises, because it is the first time that he approaches the opposite sex. It feels like an exploration stage. I know many

<sup>168</sup> Activist and director of an organisation, Basra. The interview was conducted as part of the mapping exercise carried out for the purposes of this report (4 March 2019).



young men who don't know how to behave with girls. They don't have personal experience dealing with girls because they were segregated during adolescence, which is a crucial stage for knowing and approaching the opposite sex in a healthy and sound manner. Young men also act according to the perceptions they grew up with in their families in terms of respecting women. If their families do not respect women, cases of violence take place, unfortunately. Girls also face violence due to their isolation and not being allowed to leave the house, which makes them an easy target for exploitation and blackmail online, because they have no normal relations with their male peers; only virtual relations through social media".<sup>169</sup> A female participant supported the student's opinion that segregation makes all that is forbidden desirable by noting: "Gender-based segregation affects the nature of relationships between girls and boys when they grow up. All that is forbidden is desirable: young men are confused when they deal with girls at university and begin to behave inappropriately to arouse their attention. However, this does not happen in other societies, such as in Lebanon and Turkey, which are similar societies. There, schools are mixed, and students behave normally, like siblings".<sup>170</sup>

The issue of sex education and its role in reducing SGBV was discussed extensively in all governorates, except in Salah ad-Din, where participants expressed reservations about addressing the issue of sex education, particularly for children. Participants agreed that sex is still a sensitive subject in Iraqi society. Most children do not receive any sex education or any information about the stages of development in childhood and adolescence. One researcher described getting her period the first time as a painful and bitter experience: "I am sure now that millions of girls in Iraq felt like I did when I first got my period. When I saw blood, I got so scared and began to cry. I didn't know what was happening to me. I ran to my older sister to tell her what happened, and she explained to me - conservatively - what happened and what I had to do. It took me a long time to understand that what happened to me happens to all girls, even my sister".<sup>171</sup> The groups discussed the dangers of the lack of sex education for children and the impact that this has on the occurrence of sexual violence against women. Families refrain from giving direct explanations to children that would help them understand stages of growth and recognise cases of harassment and sexual violence. The only lesson that deals with the reproductive system of women and men is in the ninth-grade biology course, and most teachers skip it under the excuse of embarrassment and shame. The discussions also tackled a crucial mechanism to reduce sexual violence, which is the introduction of sex education courses or classes for students at all stages. A participating physician from Kirkuk objected to this idea. She said: "Implementing this idea is impossible. We cannot introduce sex education to schools. We would face a lot of opposition from the Ministry of Education and Parliament. We did the same experiment in Kurdistan and failed. Parents and families did not accept the inclusion of educational information about sex in children's curricula. The initiative was cancelled, and the courses were withdrawn. I believe we should change the terminology to terms that have the same sense but do not provoke society, e.g. replacing sex education with health education, as health involves numerous and various aspects, such as puberty, hygiene, and others. If these terms figure within a purely scientific context, they would be accepted by society".<sup>172</sup> In addition to the proposal to change provocative terminology, particularly the words 'sex' or 'sexual', there were proposals to provide the information gradually, depending on the children's age. What matters is teaching children what is right and what is wrong, and how to recognise abuse attempts by anyone, including family members.

<sup>169</sup>- Fourth-year medical student and civil activist, Basra. The interview was conducted as part of the mapping exercise carried out for the purposes of this report (4 March 2019).

<sup>170</sup>- Activist, Basra. The interview was conducted as part of the mapping exercise carried out for the purposes of this report (4 March 2019).

<sup>171</sup>- Social researcher, Kirkuk. The interview was carried out as part of the study conducted for the purposes of this report (24 March 2019).

<sup>172</sup>- Physician and civil activist, Kirkuk. The interview was conducted as part of the mapping exercise carried out for the purposes of this report (24 March 2019).

## *Religious Discourse: Mechanism and Challenge*

Religion is a fact and a personal practice in the lives of most of the Iraqi society, which is why it is one of the institutions that influence women's lives and experiences in dealing with violence contexts. Religious interpretations cover all aspects of women's lives, so it is not surprising that women seek support or advice from clerics. Religious texts and teachings can even serve as a resource to help women/victims who have suffered abuse. However, these texts can also be misused by some clerics to justify or condone violent behaviour. What is certain is that religious teachings and the role of clerics in the context of SGBV are not impartial. The discussions viewed religious discourse as an important mechanism to reduce violence, but also a challenge and barrier to confronting violence, particularly sexual violence. According to fiqh interpretations of religious texts, sexual practices are an absolute right for the husband/man, while the woman is responsible for seduction and arousal. At the same time, religious discourse sets certain taboos on the discussion or addressing of the subject of sex by any other social institution. An activist from Baghdad said that one of the reasons for the increase in violence against women is that religious discourse limits the existence and being of women to their bodies: "They always focus on the fact that women are awrah [must be covered]: their voice is awrah, everything about them is awrah. Their speeches always emphasise the need for women to wear the veil, because women, like chocolate, must be covered for protection from flies! There is one hadith that urges those who sit on the roads to lower their gaze. But one time I was in a government department, and as I sat on the road waiting, I watched the way men look and wait for any chance to harass women. You won't believe what I saw. They looked at women who wore niqabs, women who wore abayas, women who wore hijabs, and women with no headcover; in short, all women, no matter how they were dressed! So, the issue is not about women's clothing, but about a certain mindset".<sup>173</sup>

According to the discussions, SGBV, particularly sexual violence, does not begin from any specific gap during armed conflicts and is not established when security institutions collapse and law enforcement weakens. Rather, many causes and factors fuel its materialisation. When political discourse intertwines with religious discourse to produce discriminatory attitudes against women, violence is legitimised and justified. A Yazidi activist confirmed that there were preludes to the abduction, enslavement, rape and murder of Yazidi women before ISIS arrived: "You mentioned that rape happens in all Iraqi governorates, but the enslavement, rape, murder, and torture of Yazidi women was the result of the idea that people have about us Yazidis being infidels. The rape of Yazidi women was justified as 'halal' and a right for Muslim men, who would be guaranteed entry to paradise with such acts. It was religious discourse that promoted this idea. Religion exerts a powerful influence on people, because society has given power to the clergy. Before 2003, I lived in Mosul, and people used to tell us 'you are infidels'. These ideas existed before ISIS, but increased under ISIS control. The former political regime backed and supported these trends and practiced Arabisation and displacement policies against Yazidis. The Yazidis were displaced more than once from Sinjar, and the former political regime did not prevent atonement calls, but instead supported them with discriminatory policies against Yazidis in government institutions. We thought things would change after 2003, but they only got worse. Not much changed even in government institutions, and discrimination against Yazidis is still widespread".<sup>174</sup>

Discussions in the five governorates emphasised the need to purify religious discourse from ideas and attitudes that entail discrimination and violence against women. However, purifying religious discourse of thoughts that include violence against women is not only limited to Islam, but covers all religions. A Yazidi activist and CSO director in Bashiqa said: "One of the most important mechanisms is the purification of religious discourse, and not only in Islam: Yazidi clerics must learn

<sup>173</sup>- Activist, Baghdad. The interview was conducted as part of the mapping exercise carried out for the purposes of this report (20 March 2019).

<sup>174</sup>- Yazidi activist, late 50s, Bashiqa district, Mosul. The interview was conducted as part of the mapping exercise carried out for the purposes of this report (26 March 2019).

to re-read and purify Yazidi religious texts of all outdated thoughts that constitute violence against Yazidi women”.<sup>175</sup> Purifying religious discourse goes hand in hand with uniform discourses not only within the same religion but also within the same sect. Modernising religious discourse is an absolute necessity to address the social phenomena that are ravaging the Iraqi society, and contributes significantly to reducing violence, particularly sexual violence.

The calls made by CSOs do not contradict the holy message of religions, which call for justice, equality and equity for all people, regardless of social differences. A cleric from Basra said: “Divorces have increased dramatically. Through my work in arranging and concluding marriage and divorce contracts, I have found that violence, particularly sexual violence, is one of the main causes of divorce. There is an obvious abuse that amounts to a crime with regard to the use of physical violence by men against their wives. Sexual violence is practised in any way by men against the wives as their absolute right, and this is contrary to law. Rather, many fiqh texts prohibit copulation between husband and wife if the latter does not reach climax. I said it before and I’ll say it again: this is an act of rape; namely, marital rape. It is condemned and prohibited by religion”.<sup>176</sup>

Some female participants said that women should not be forced to choose between enjoying safety and dignity on the one hand, and their religion, traditions, and society on the other. They added that women should be able to enjoy their rights and have access to support and counselling from society, including clerics, who are considered social leaders and can help reduce cases of SGBV.

<sup>175</sup>- Yazidi activist, early 40s, Masters’s student, Bashiqa district, Mosul. The interview was conducted as part of the mapping exercise carried out for the purposes of this report (26 March 2019).

<sup>176</sup>- Cleric, Basra. The interview was conducted as part of the mapping exercise carried out for the purposes of this report (4 March 2019).

## Conclusions

### Based on the foregoing, we conclude:

- 1.** Armed conflict and repressive policies imposed by the former Ba'ath regime have contributed to the spread – and persistence – of sexual violence against women and girls, but between 2003 and 2018, in particular, SGBV increased at an alarming rate. Reports documenting SGBV have shown that rape is most common. The mapping also showed that rape is closely linked to honour killings, as many rapes end in the victim's murder, either out of fear that the rape crime will be discovered, or because the victim was held responsible. The mapping also revealed an increase in the abduction of women by various actors: victims' families, regular forces, militias, and the U.S.-led coalition forces. Rape and honour killings remained the most frequent forms of SGBV against women and girls. Acts of sexual violence were brutal: girls as young as 4 and 5 years old were raped and killed. Fragile security conditions and the poor performance of security institutions led to further human trafficking and exploitation of women and girls in organised prostitution.
- 2.** From 2014 to 2018, women and girls in Iraq faced some of the most heinous forms of sexual violence and suffered greatly as a result of the armed conflicts that were waged during that period. The gender-based crimes perpetrated by ISIS were widespread and systematic, including abduction, rape and sexual enslavement and exploitation of women and girls, especially Yazidis. Thousands of women and girls were forced to marry ISIS fighters. Rampant sexual violence committed by ISIS in conflict areas led to widespread sexual violence crimes and violations in other governorates, including a significant increase in honour killings and rapes. Human trafficking became more organised for the purpose of sexual exploitation. The rape and murder of girls increased, and numerous child marriage cases were recorded.
- 3.** In recent years, some forms and practices of sexual violence against women and girls that had been previously tolerated in Iraqi society, such as FGM, became relatively recognised and criminalised. Public opinion and international attention also denounced the terrible crimes committed by ISIS against women and girls in the vast areas under its occupation. This led to a relative recognition and increased documentation of sexual violence against women and girls, as evidenced by the monitoring of sexual violence crimes and violations in the reports of local organisations and local media outlets and news agencies. However, attempts by government institutions to document and categorise sexual violence abuses remain timid.
- 4.** The mapping showed that sexual violence and other gender-based crimes were committed against women and girls of all ages, albeit mostly against minors, irrespective of their economic or social status.
- 5.** Minority women, particularly Yazidis, were most at risk of sexual violence. Sex was used as a weapon, a tactic of warfare and of genocide, and a tool to intimidate and subjugate people. Displaced women (particularly widows, breadwinners and wives of missing persons) and women in areas under ISIS control were subjected to widespread sexual violence and exploitation. The mapping exercise also showed that some women held in detention centres and prisons were raped and abused by members of state security forces.
- 6.** Sexual violence crimes and violations were committed in various places, including in prisons, detention facilities, camps, but also on the street and remote areas. Domestic violence crimes, often confined to private spheres, were equally prevalent.
- 7.** Despite the end of military operations and the decrease of sexual violence crimes committed by ISIS fighters, SGBV remains widespread. Inside the home, women face various forms of sexual violence. In conflict areas, sexual violence against women persists even after the expulsion of ISIS.

**8.** The main reasons for the persistence of sexual violence are silence and the failure to come forward and report crimes and violations. Those working in referral system institutions lack the required understanding of the complex aspects of sexual violence in conflict and post-conflict contexts: police, judicial personnel, health professionals, and social workers. The victims face sexual violence-related stigma, blame and discrimination by their families, society and referral system institutions, which undermines survivors' access to remedies, justice and protection.

**9.** Some of the main factors that fuel the existence and persistence of sexual violence in peacetime and wartime are discrimination, the lack of gender equality and equity, and the stereotyping of gender roles in the family, society and laws.

**10.** Iraqi law does not criminalise all forms of sexual violence defined in the 1995 Beijing Conference and by the WHO, nor does it criminalise CRSV as defined in the UN Secretary-General. Impunity for perpetrators remains widespread under criminal laws that do not punish the most serious crimes, such as rape, sexual slavery, and forced marriage. Some of these crimes are even justified on religious or social grounds and may enjoy legal and judicial excuses, which fosters impunity.

# Recommendations

## A. Recommendations to the Iraqi Government

### *Government Legislation, Policies and Procedures*

1. Accede to the Rome Statute of the International Criminal Court (ICC) to ensure the prosecution of sexual and gender based crimes that were committed against women, girls and children and that may amount to war crimes, crimes against humanity, and/or genocide.
2. Ratify the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women and withdrawing reservations to Article 2(f) and (g) and Article 16 of the Convention.
3. Review laws and legislation that enshrine inequality and/or discrimination based on gender, including the Penal Code No. 111 (1969), particularly those articles relating to rape, abduction, and “honour killings”; Criminal Procedure Code No. 23 (1971); the Law on Combatting Prostitution; as well as decisions by the former regime to legitimise violence and discrimination against women and decisions violating Iraq obligations under international law.
4. Expedite the enactment of the Domestic Violence Law to ensure that international norms to reduce domestic violence crimes are met.
5. Establish a national mechanism for women’s affairs that enjoys independence as per Article 108 of the Constitution and comprises the three branches of power, the Kurdistan Region’s High Council of Women Affairs, civil society organisations (CSOs), women’s studies centres, and media institutions.
6. Adopt an action plan to implement the provisions of the Joint Communiqué of the Republic of Iraq and the United Nations on Prevention and Response to Conflict-Related Sexual Violence, by taking specific and explicit steps and providing the resources needed to achieve them.
7. Establish a victim and witness protection programme within Iraqi courts to encourage women to file complaints on CRSV, particularly those committed by powerful and influential actors; and ensure the victims’ full and effective participation in all penal procedures.
8. Develop a comprehensive gender-sensitive security sector reform policy and developing a strict code of conduct based on respect for human rights, as well as providing follow-up, oversight, and accountability for its enforcement.
9. Provide human and financial resources and political support for the implementation of the updated Strategy to Combat Violence Against Women (2018-2030).

### *Procedures and Measures to Protect and Build Capacities*

10. Enhance victims’ and survivors’ access to the needed medical, psychological, social, and financial services by adopting a referral system and taking the necessary measures to activate and disseminate it, as well as simplifying the procedures required to access legal and psycho-social services, and ensuring that victims have access to educational opportunities, economic empowerment, and rehabilitation.
11. Simplify procedures for registering marriages, divorces and births in all regions, and facilitate related administrative procedures and reducing bureaucracy, especially for women subjected to sexual violence by members of ISIS or other perpetrators.

**12.** Ensure training of medical staff, psychologists, schoolteachers and caregivers on human rights and the special needs of children subjected or exposed to SGBV, especially children born to ISIS fathers, as well as female victims of rape and other forms of SGBV.

**13.** Provide safe havens and safe spaces in all governorates and guarantee medical services, legal support, and rehabilitation and integration programmes for women and girls who are victims of violence, and of SGBV specifically. Provide funding for these services and monitor their quality on a regular basis.

### ***Preventive Procedures and Measures***

**14.** Establish specialised training programmes for judges, public prosecutors and law enforcement officers on international human rights law, international humanitarian law, (international) criminal law, forensic methodology, investigation of sexual and gender based crimes, and ways to provide the needed protection to victims and witnesses of SGBV and human trafficking.

**15.** Develop specialised training programmes for judges, public prosecutors, and law enforcement officers on the concept of gender and integrating these programmes in law enforcement mechanisms and procedures for dealing with women, girls, and children subjected to sexual violence. Develop policies to ensure they can access justice and reducing impunity for perpetrators of violence and trafficking in women.

**16.** Amend school curricula and adopt an educational policy that is open to the principles of human rights, women's rights, and gender sensitivity. Organise awareness and gender sensitivity campaigns in the media and academic and educational institutions and among religious and community leaders to combat violence and extremism against women and girls. Combat harmful practices and stereotypes that spread during conflicts and displacement waves, especially early marriage and/or forced marriage, temporary marriage, and so-called 'honour' crimes.

## **B. Recommendations to Iraqi CSOs**

**1.** Facilitate the establishment of support networks within local communities for women subjected to SGBV and other forms of violence to reinforce awareness and communication, and to facilitate access to professional and social training and public support services.

**2.** Provide training to judicial officials, security personnel, and police officers on ways to deal with SGBV cases and ensure that security personnel and police officers act in line with human rights standards.

**3.** Work with judicial, legislative, and security institutions to review policies, strategies, and legal provisions that mitigate penalties and uphold impunity for perpetrators.

**4.** Maintain and expand efforts to document SGBV and other forms of violence against women.

## **C. Recommendations to the International Community**

**1.** Encourage Iraq to hold accountable those involved in flagrant violations of international law, including by ratifying to the Rome Statute of the ICC as well as other international human rights treaties that Iraq has not yet ratified.

- 2.** Support long-term programmes that empower CSOs, build their capacity to monitor and document sexual and gender-based crimes during and after conflicts, and strengthen their psychological, health, social, and legal victim support services.
- 3.** Support the efforts of CSOs to combat harmful practices and change stereotypes faced by women, especially in the context of armed conflicts and displacement.



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