

Sexual and Gender-Based Violence in Iraq 2003-2018

Executive Summary

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

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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PAX

PAX works together with committed citizens and partners to protect civilians against acts of war, to end armed violence, and to build just peace. PAX operates independently of political interests.

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This executive summary 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 document is an executive summary of the mapping report on Sexual and Gender-Based Violence in Iraq 2003-2018, which was developed by Iraqi Al-Amal Association, Impunity Watch and PAX, and funded by the Dutch Ministry of Foreign Affairs. The report is part of a broader project entitled «Engendering the Transition to Peace and Security in Iraq», implemented by these three organisations and was developed with the help of Iraqi civil society activists and academics who worked 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 experienced SGBV were excluded from post-conflict efforts aimed at dealing with past human rights violations. To date, none of the government-led transitional justice or reconciliation efforts have focused systematically 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 group¹ 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 executive summary 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.

1- Different ethnic, religious and political groups.

Introduction

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, recurring armed conflicts, the lack of mechanisms for protecting women even in peacetime, and a widespread "victim-blaming" mentality have all fostered an enabling environment for violence against women and girls. SGBV was also used as a means for imposing political agendas and justifying the destruction of 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 fuelling SGBV, both in peacetime and in times of armed conflict.

In the clear absence of gender-sensitive data, particularly data dealing with taboo issues such as sexual violence, this executive summary, which is based on the 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, determine the general profiles of perpetrators, and review the root causes for the continuance of these crimes and violations.

Methodology, Sources and Stages of Data Collection

The 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. The data collected was sorted into three timeframes, as follows: 2003-2008, 2008-2014, and 2014-2018, to take into account some of the general political and security contexts in Iraq during these periods.

In the first stage of the drafting of this report, the research team used data supported by trusted sources from official and/or published reports and supplemented by direct testimonies obtained in interviews of SGBV as well as with researchers and activists working alongside them and sought to document the violations through more than one source. Much of the data not supported by trusted sources was disregarded altogether.

In the second stage of data collection, the research team used focus group discussions to tackle the root causes of various patterns of SGBV against women and girls and possible solutions and mechanisms to curb those patterns and practices. In March 2019, 10 focus group discussions among activists were held.

Legislative Frameworks

Although Iraq is bound by international conventions that require the state to put in place laws and regulations that protect women and girls from SGBV and support victims to ensure justice and accountability, **Iraqi legislation does not criminalise widely recognised forms of sexual violence (rape, sexual enslavement, forced marriage)** as defined in the Report of the Fourth World Conference on Women (1995 Beijing Conference), the World Health Organization (WHO), and the 2017 report of the UN Secretary-General on conflict-related sexual violence (CRSV). **Impunity for perpetrators remains widespread. Several of these crimes may even be legally justified on religious or social grounds and enjoy legal and judicial tolerance.** Additionally, Iraq has not ratified the 2002 Rome Statute of the International Criminal Court (ICC).

The Most Relevant Applicable International Legal Frameworks

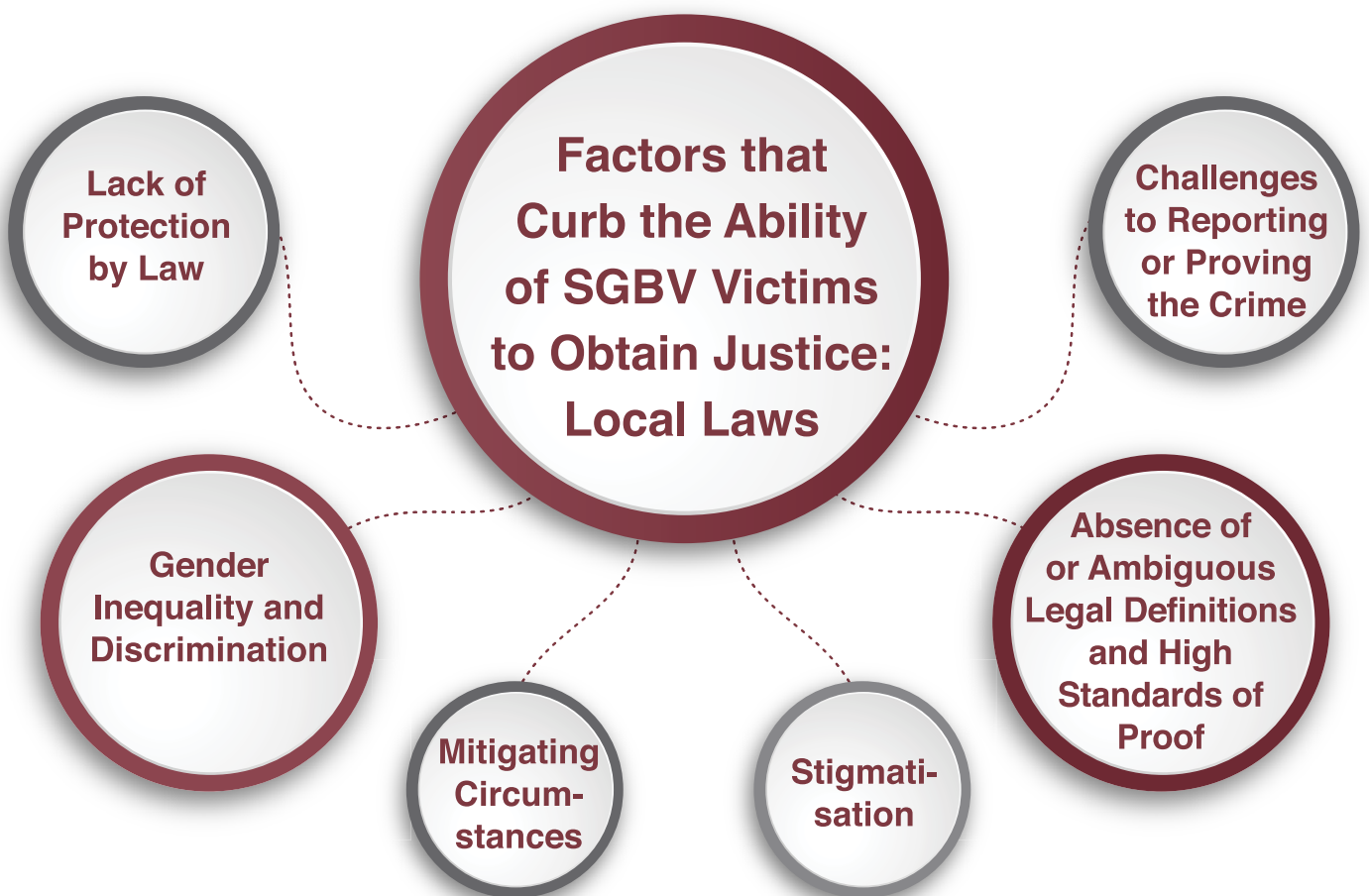
- The 1966 International Covenant on Civil and Political Rights, signed by Iraq in 1969 and ratified in 1971;
- The 1965 International Convention on the Elimination of All Forms of Racial Discrimination, signed by Iraq in 1969 and ratified in 1969 with reservations to Article 22, which imposes the arbitration 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;
- The 1979 Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), acceded by Iraq in 1986 with reservations to certain articles;
- 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;
- 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.

Iraq's 2005 Constitution

Iraq's Constitution affirms the principle of equality between all citizens (Article 14), and 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.

Although the right to equality is stipulated in Article 14, which aims at eradicating discrimination and violence against women, **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.** Furthermore, Iraqi law, which has not seen any real amendments, does not criminalise all discriminatory practices against women in line with international conventions ratified by Iraq.

Local Laws



Many Iraqi laws still enshrine discriminatory practices against women and girls and include many loopholes that limit the ability of SGBV victims to obtain justice.

Lack of Protection by Law or the Conditions Thereof

- The Iraqi Penal Code **allows a husband to ‘discipline’ his wife and children by beating** (Article 41), within the limits prescribed by law or custom. The law fails to define the ‘right to discipline’ and leaves it to the judge’s discretion and interpretation.
- The Iraqi Penal Code **does not explicitly criminalise female genital mutilation (FGM)** but considers it to be an act that causes permanent disability (Article 412). The practice of FGM persists in Kurdistan, which is why the Kurdistan Regional Government (KRG) criminalised it by enacting Law 8/2011 on Domestic Violence, amending the region’s Penal Code.
- The Iraqi Personal Status Code **permits the marriage of minors** starting from the age of 15 (Article 8).
- The Iraqi Penal Code **does not criminalise marital rape** and considers it one of the rights afforded to a husband.
- Some articles stipulate difficult conditions that victims cannot meet, such as a high burden of proof on the victim or complainant. **According to the law, a harassment incident requires evidence to incriminate the perpetrator, primarily the presence of witnesses** (Articles 400, 401, and 402 of the Penal Code).

Laws that Discriminate Between Men and Women

Laws discriminate between men and women in their provisions and definition of the crime, for instance: ‘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’. (Article 377 of the Penal Code). 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.

Mitigating Circumstances

According to the Iraqi Penal Code, **a perpetrator is exempted from punishment if he marries the victim for at least three years**. If the perpetrator of a crime mentioned in the chapter on detention and abduction lawfully marries the victim, all legal proceedings, investigations, or other procedures shall be discontinued. If a sentence has already been passed, it shall be suspended (Articles 398 and 427). As such, the law gives marriage to the victim precedence over the prosecution of the perpetrator.

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. **The mitigated prison sentence is often no more than three years**. 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.

Absence of or Ambiguous Legal Definitions and High Standards of Proof

The lack of clear definitions of the elements of crime under Iraqi law causes ambiguity, which can result in victims being unaware of their rights or unable to properly defend them, as they remain subject to the judge's discretion and interpretation, for instance:

- The articles that deal with sexual assault do not define the term 'sexual assault' for instance. Nor does it define the meaning of 'non-consensual', or '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 (Articles 396 and 397 of the Penal Code).
- Articles that criminalise rape do not necessarily mention all forms of penetration as specified under the Rome Statute, such as oral or anal penetration or penetration using objects (Article 393 of the Penal Code).
- Despite the prohibition of forced marriage or the marriage of persons lacking the capacity to consent, Article 9 of the Iraqi Personal Status Code does not define what constitute 'forced', 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.
- The law considers motives of honour to be a mitigating excuse for the commission of a crime. However, it did not define what would constitute 'motives of honour' and leaves the concept open for interpretation. Article 130 of the Penal Code provides that the death penalty shall be reduced to one year in prison and life imprisonment shall be reduced to six months in prison if a crime was perpetrated by motives of honour. These provisions are discriminatory against women because they reduce the punishment of men who commit crimes against women under their authority if they believe they have engaged in an act that affects the family honour.
- None of Iraq's laws on torture define the acts or behaviours that constitute torture. They only provide that 'torture' is prohibited, and restrict it to torture during investigations and the extraction of confessions. It is not clear what behaviour constitutes 'torture' under Iraqi law, which means that the judiciary does not necessarily consider SGBV among the crimes that constitute torture.

The Use of Stigmatising Phrases or Wording in Laws

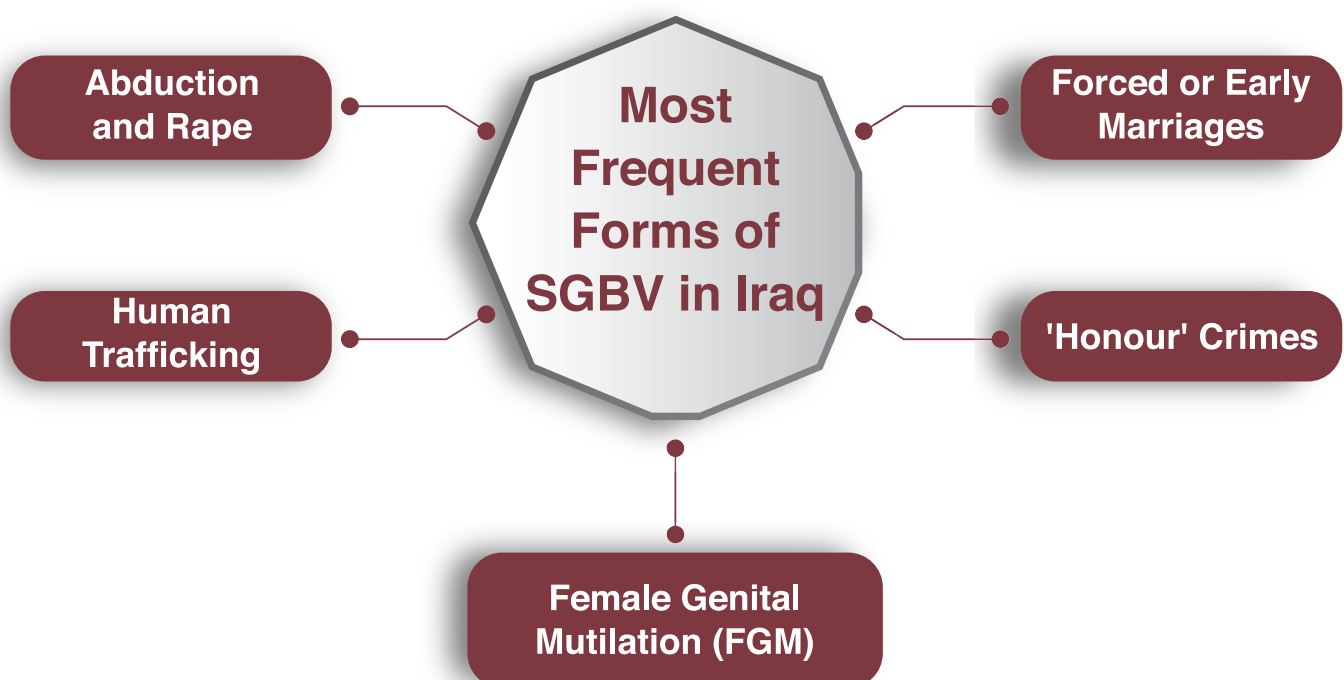
Some of the language used in legal provisions can be viewed as stigmatising and have harmful psychological effects on the victim.

- **The focus on virginity and the victim's 'hymen examination', a practice codified by judicial order, is not in line with international standards, not to mention its negative effects on the victim, including harmful psychological effects.**
- The harassment-related terms used in these articles (immodest acts, indecent advances, assailment in an immodest manner) lack a specific definition and exacerbate the impact of the crime on the victim (Articles 400, 401 and 402 of the Penal Code).

National Plans and Working Mechanisms

- The Iraqi Government has adopted several national strategies for women, including the National Strategy to Combat Violence Against Women (2018-2030), the National Strategy for the Advancement of Women (2014), and the National Action Plan for the Implementation of Security Council Resolution 1325 on Women, Peace and Security, which emphasises the protection of women from SGBV.
- On 5 March 2018, the Iraqi Government launched the National Plan to Implement the Joint Communiqué on CRSV Prevention and Response, which was signed by the Iraqi Government and the SRSG/SVC in September 2016. 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 Communiqué.
- However, the economic crisis and political problems between the Iraqi Government and the KRG rendered the mechanisms of joint action ineffective. The lack of funding, national mechanisms, and political will are key reasons for the failure to implement national policies and plans related to women, in addition to weak civil society organisation (CSO) mechanisms for monitoring, evaluation, and follow-up.

Most Frequent Forms of Violence



Armed conflict and the 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. Between 2008 and 2014, rape and honour killings continued to be the most common forms of sexual violence against women and girls in Iraq. 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. 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.

Abduction, Rape, and Murder

During the period covered by the mapping report, rape and honour killings continued to be the most common forms of sexual violence against women and girls in Iraq. These crimes were of a brutal character, with girls as young as 4 or 5 being raped and killed. The mapping exercise showed that **rape cases are largely connected to honour killings**, either out of fear that the rape would be discovered, or because the victim is held responsible for the rape.

Since the era of the Ba'ath regime, **rape and sexual assault of women were also used to pressure and humiliate the direct victims' male relatives**. This stemmed from a mentality that linked the family's honour to its women's bodies. Rape and sexual assault were thus used for political purposes, such as extracting information and forced confessions from detained family members, intimidating opponents by sending them videos of the rape of their female relatives, or using these videos to blackmail the victims themselves into cooperation.

There are no reliable statistics on the exact number of rape incidents against women and girls, or how effectively the government implements the Penal Code, which criminalises rape. **The law allows the dismissal of the case if the perpetrator lawfully marries the victim for three years. If the marriage ends in a divorce brought about by the husband without legal justification within these three years, the sentence shall be reviewed with an aggravating circumstance. If the victim dies, the litigation proceedings shall continue.** The law 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. Some families of rape victims even insisted that the victim marry the perpetrator to preserve the family's honour, and some even went as far forcing such marriages.

Human Trafficking

Although the Iraqi law generally criminalises **prostitution and human trafficking, prostitution and the exploitation of women and girls in trafficking networks continues to rise given the fragile security conditions** and the poor performance of security enforcement institutions, which leads to the exploitation of women and girls into organised prostitution. Many trafficking victims were women and girls who had fled their homes to escape forced marriages or domestic abuse, or due to the dire financial situation. Fleeing makes these women even more vulnerable and easy targets, as they usually have no identification papers or protection, which pimps promise to provide to them in an attempt to lure them in.

On the other hand, fearing the family's reaction, which could go as far as honour killing, victims avoid returning to their homes or seeking protection from security institutions. In other cases, the family is the culprit, as they sell the daughter, especially as socioeconomic conditions worsen, which provides an argument to justify the trafficking of girls with financial excuses, amid a clear lack of security.

Under ISIS, trafficking in women and girls intensified. Thousands of women and girls were abducted and sold. They were subjected to the unthinkable forms of sexual slavery, forced marriage and domestic servitude. 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. ISIS honoured its fighters by gifting them the widows of the men they had executed to encourage them to continue fighting. The group gave away 'enslaved' Yazidi women as prizes for the winners of a Qur'an memorisation competition.

Violence by State and Non-State Armed Groups

Successive state forces and non-state armed groups have engaged in direct and indirect forms of violence against women. Direct forms include **torture and the use of women as a means of revenge against their husbands or male relatives.** These practices began with the Ba'ath regime and continued with the coalition forces. They were also prevalent under ISIS and thereafter, notably with the suffering of women whose male relatives are suspected ISIS members.

Women in prisons or interrogation centres have also undergone physical, sexual, and psychological abuse. Many cases have been documented in the prisons of the international coalition forces, the most infamous of which is Abu Ghraib. Cases of sexual violence and abuse against women often remain hidden, either due to the high burden of proof on the that victims -- who face disproportionate levels of power and authority compared to perpetrators -- or under the pretext of avoiding scandal. **The victim's family often plays a role in hiding the crime, and some even commit an 'honour' crime against the victim.** Some female prisoners are killed at the hands of their own families when they report cases of assault. According to some sources, Iraqi police also committed some abuses against women, such as threats, intimidation, beatings, and electric shocks.

Female breadwinners have frequently been exploited by entities distributing aid or managing migrant camps. Some of these women were repeatedly raped and subjected to other forms of sexual exploitation, sexual harassment, and systematic discrimination, including sexual bargaining to obtain food, water, and basic needs.

Discriminatory laws and the lack of laws that protect women and girls (see summary on legal frameworks) are further considered a type of violence practiced against women by the state, which colludes with perpetrators and the patriarchal mind-set to foster an environment that tolerates violence against women.

On the other hand, the indirect forms of violence against women and girls by state and non-state armed groups were evident in **the manipulation of gender relations, for instance; an approach adopted by the Ba'ath regime in its national and political discourses**, which sought to maintain the regime's authoritarian power. Women were turned into 'symbols of the nation' and given new roles in the public sphere, albeit without any change whatsoever in the prevailing patriarchal mind-set. The regime repeatedly tried to regain control of the situation 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.

The disregard of official authorities for the punishment of perpetrators of violence against women and girls and their reluctance to prosecute them are also a type of indirect violence that conveys a message to women that they are second-degree citizens.

Female Genital Mutilation (FGM)

Although FGM is illegal in Iraq, especially in the Kurdistan Region, where it prevails the most, girls still undergo FGM amid tolerance by family and society in some regions.

'Honour' Crimes

Family members often refrain from reporting 'honour crimes', but rather bury the bodies of victims and attribute the death to poor security conditions and violence of non-state armed groups, suicide, or other causes. Some honour crimes are committed openly and in broad daylight, including stoning in a public place. The law enshrines tolerance of these crimes through articles that provide mitigating excuses and disregard the prosecution of perpetrators.

Forced or Early Marriages

The influence of customs, values, and tribalism is a key cause and contributor to continued forced and early marriages. **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. This woman is known as a 'fasliyah'**. 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 victim becomes a product that is traded by the family or even the tribe in general.

Due to the economic and security conditions, many women found themselves **victims of bargaining** for aid and support in exchange for their acceptance to engage in so-called 'pleasure marriage', a temporary marriage that allows a man to marry a woman for the purpose of enjoying her for a period of time. Women are forcibly exploited and stigmatised and have no recourse for any redress or compensation in the case of exploitation or abuse.

Early marriages persist despite the increased global awareness of their risks and the growing campaigns against them. Judges may authorise the marriage of a child above 15 if the latter so requests and is proven to be capable and physically fit, after the approval of their legal guardian. If the child is below 15, these marriages are done unofficially and not registered until the child is 15. In these cases, girls may become victims if their marriage cannot be proven, in addition to the many risks they face due to their early marriage. Some girls are married off twice even before reaching the age of 15. Many families have benefited from the 2016 amnesty law, which annulled the fine imposed on families that conclude a marriage contract outside the courts.

Root Causes that Enabled SGBV Policies and Practices



Violence does not begin from any specific gap and is not established only as a result of conflicts or poor security conditions. Several root causes combine to form an enabling environment and an integrated system of violence. This explains the prevalence and persistence of violence and abuse against women and girls in all its forms.

The absence of a law criminalising violence is directly linked to the nature of the socialisation process, which determines the status and 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.

Influence of Traditional and Tribal Customs

Cultural standards in Iraq include a gender-based system that **justifies and legitimises (sexual) violence** and fosters its acceptance, as it is regarded as a private family affair, even if this comes at the expense of the victim and her right to ensure justice.

Role of the Family

The family is the first environment in which the cultural concepts and expectations of the roles and status of women and girls in society, which are inferior to the roles and status of men, are learned or reinforced. These concepts are consciously and unconsciously imposed on males and females alike.

Role of Educational Institutions and the Dilemma of Sex Education to Reduce Violence

Schools and educational institutions cannot be isolated from the existing traditions, culture, 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 reinforce power inequality between teachers and students. This is where educational institutions play a key role in supporting violent behaviour against women and girls.

Main Levels of Influence of the Educational System

- School curricula: The Ministry of Education has made many changes to the curricula, but the contents of some subjects continue to promote violence and discrimination against women.
- Gender-based segregation: It is a cause of sexual violence against women that can become a key solution in the future. The segregation of girls and boys in primary, middle, and high school creates a kind of unbalanced relationship at the university level. When a young man approaches the opposite sex for the first time, it feels like an exploration stage, because they were segregated during adolescence, which is a crucial stage for knowing and approaching the opposite sex in a healthy and sound manner.
- Sex education: 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.

Role of Religious Discourse

Religion is one of the institutions that can influence women's lives and experiences in dealing with violence faced on daily basis. Religious interpretations cover all aspects of women's lives, and religious texts and teachings can even serve as a resource to help women/victims who have suffered abuse. However, **religious texts can 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 that accompanied the drafting of this report 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 wife/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. The thoughts promoted on religious platforms may be one of the reasons for increased violence against women, as they limit the existence and being of women to their bodies.

Security Vacuum and Humanitarian Crises

The complete collapse of the rule of law at various stages throughout the years covered by the mapping report and the preoccupation of security bodies with armed conflicts amid insecurity posed a serious threat to the security and safety of women and girls. This reality paved the way for the rise of crimes and abuses against them. Terrorism and extreme violence also led to the deterioration of the rule of law and impunity for the perpetrators of horrific offenses and violations.

The general situation of state institutions saw **women and their families turn to unofficial 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 parallel, conflicts and security conditions led to **the marginalisation of women and girls, especially refugees** and those who lost the family's male breadwinner or provider and became vulnerable to abuse in view of their need, such as dependence on **aid distributed on condition of their bargaining with their bodies and dignities**.

Challenges to Reporting or Proving the Crime

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, judiciary, 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 communities 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 hegemonic laws and political discourses.

Women and girls often have difficulty proving the crime and face disappointment when **the punishment of the offender does not correspond to the magnitude of the violation** in terms of the court sentence or its implementation on the ground.

Poor or Non-Existent Referral and Protection System

One of the main reasons for the persistence of SGBV is silence and the reluctance 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, the judiciary, 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.** This is in addition to the notable lack of victim protection services, on the grounds that shelters for women and girls, particularly victims of trafficking, raise suspicions and earn a bad reputation. Since the Ba'ath regime era and until ISIS, non-state armed groups sometimes conducted mass executions of victims of trafficking and forced prostitution without any trial, under the pretext of 'honour'. These executions are viewed as almost righteous: rarely are investigations pursued to hold perpetrators accountable.

As for health institutions, there is also **a clear lack of a referral system** and the procedures required to facilitate the detection of sexual violence, provide support, services, and first aid, and document evidence. The personnel's training level portends a real disaster in terms of the violations and abuses committed specifically against women who are victims of sexual violence. The victim has her statements questioned and faces stigma at every stage of routine procedures. **Victims are treated in a humiliating manner. Their suffering is reduced to patriarchal concepts, such as giving importance to the tearing of the hymen.**

The lack of prevention efforts to address the social and psychological forces driving violence, particularly in conflict and post-conflict situations, should also be noted.

Law enforcement institutions are sometimes part of the problem instead of the solution. The poor performance of the security institution is one of the reasons for violence and its persistence.

Main Aspects of Lack of Protection by Security Institutions

- The ineptitude and lack of seriousness of some frontline police officers responsible for providing direct services to victims;
- 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;
- Lack of the necessary equipment for evidence collection and investigation, which affects the progress of legal proceedings and trials of cases of violence against women and girls;
- Violent crimes are sometimes committed by some police officers themselves;
- The security apparatus conspires with the victim's family or the perpetrator to persuade the victim not to file a complaint or report the crime, or sometimes by not implementing the sentence seriously;
- The gender factor is connected to racism and poverty. Security officers sometimes harass and rape foreign female domestic workers and deal with their cases lightly;
- The lack of an appropriately trained female police force in charge of receiving survivors and providing direct services to them.

Challenges to Obtaining Justice

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. This underlines **the shortcomings in the judiciary's performance, methods,** and procedures, and the extent to which the judiciary is influenced by traditional standards, concepts, and culture when handling SGBV cases.

Prevailing Mentality and Victim-Blaming

The family, community, and state often **blame the victim** for the crime in one way or another, **justify a perpetrator's act,** or **encourage him to settle a case at the victim's expense. Victims are urged to conceal the incident or even marry the perpetrator in cases of kidnapping or rape.** As a consequence, victims often decide to remain silent and conceal the incident to avoid further suffering and stigmatisation; afraid that she cannot overcome the crime or abuse she has suffered.

In many cases, victims' rights are extinguished as soon as they fall victim to the crime. This is generally the case with victims of human trafficking, which lead to prostitution crimes. Another example is the women and girls that were subjected to forced marriages – or worse – under ISIS,

many of whom now face serious consequences as a result of their 'connection' to the terrorist group despite having had no real say in the marriage or affiliation.

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 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 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 the 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.



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