



Middle East
Centre

STATEBUILDING AND GENDER IN THE KURDISTAN REGION OF IRAQ

Workshop Report
July 2014

INTRODUCTION

On 27 May 2014, the LSE Middle East Centre and the American University in Dubai organised a one-day workshop entitled “Statebuilding and Gender in the Kurdistan Region of Iraq”, hosted by the University of Kurdistan-Hewler, Erbil. This event is part of a collaboration research project between LSE and AUD looking at the role of international actors in enhancing women’s rights after a foreign military intervention, taking the Kurdistan Region of Iraq (KRI) as a case study. This report presents the proceedings of the workshop, which brought together international and civil society organisation representatives, political party representatives, government officials, academics, researchers and lawyers. The workshop assessed the attempts to improve women’s status in the Kurdistan region¹, the areas of progress and the problems that emerged in the context of statebuilding in Iraq. Implications of existing policies on the future of gender equality and recommendations for new policies and courses of action were also discussed.

Themes covered at the workshop included:

- The UN’s activities concerned with the issue of gender;
- The role of local and international women’s non-governmental organisations (NGOs) in increasing awareness of gender equality and improving the status of women;
- Opportunities and challenges in the relationship between the UN, the government and local NGOs;
- Long-term views of the status of women in terms of continuities and discontinuities from 1991 until today;
- The government’s responses to violence against women;
- Implications of legal and constitutional changes on women’s political participation;
- Women’s status and the impact of new policies introduced since 2003;
- Differences and similarities in women’s status between urban and rural areas.

In this context, statebuilding is defined as a wide range of mechanisms used by international actors in the management of post-conflict peace processes, protection of human rights, and dissemination of international principles of good governance and the rule of law.² Since the regime change in Iraq in 2003, states and international organisations have been engaged in political, institutional and constitutional reconstruction of Iraq and the Kurdistan region. Enhancing gender equality has been a significant component of this process, which was informed by CEDAW³ (The Convention to Eliminate All Forms of Discrimination against Women) and the UN Security Council Resolution 1325⁴ on women, peace and security, which was adopted in 2000.

The KRI, compared to other parts of the country, followed a slightly different trajectory in many ways, including gender equality. Raising awareness of issues faced by women in society and increasing the involvement of women in public and political life has been somewhat more successful in this region than in the rest of Iraq. Analysing the relationship between institutional reconstruction and gender relations and its positive and negative outcomes is central for understanding the transformation of the political and social life in this region. It is important to note that this analysis should be undertaken with the acknowledgment that gender inequality and gender-based violence are universal and are not confined to any particular region or religion.

WOMEN’S ISSUES IN THE KRI AND GOVERNMENT RESPONSES

The work of civil society organisations on women’s issues in the KRI dates back to 1991. Historically, women’s organisations were divided along political party lines. In the 1990s, new organisations prioritising gender issues over political affiliations began to emerge. After 1991, and with the foundation of the Kurdistan Regional Government (KRG), women’s NGOs played a significant role in applying pressure on the government to amend laws that are related to or affecting women. Today, there are around 50 women’s organisations in the KRI. Activities undertaken by these NGOs include training, raising awareness, providing legal support, and setting up women protection centres/shelters.

¹ In this report, the terms ‘KRI’ and ‘Kurdistan region’ refer to the Kurdistan Region of Iraq.

² David Chandler (2009) Introduction. In: D Chandler (ed) *Statebuilding and Intervention: Policies, Practices and Paradigms*. London: Routledge, 1-14, 2.

³ <http://www.un.org/womenwatch/daw/cedaw/>

⁴ <http://www.un.org/womenwatch/osagi/wps/>

Among the problems highlighted by these organisations are legal discrimination against women through the personal status law, violence against women, limited participation of women in public and political life and limited access to education and opportunities. One of the main initial proposals made in 1992 by civil society organisations working on women's issues to the government was to change the personal status law in the Kurdistan region; this was refused. The demands made in this proposal aimed at increasing women's rights within the family in terms of marriage, inheritance and protection from violence. Organisations continued to put pressure on the government until the law was successfully amended in 2003.

Gender-based violence is one of the most significant issues NGOs have been addressing in the KRI. Creating space to discuss gender-based violence remains challenging, but activities led by women's NGOs have played a crucial role in generating this space. Understanding the nature of gender-based violence is necessary when trying to study its impact on society as a whole and on women in particular, as well as for the development of effective strategies and policies. Most of the crimes are committed in the name of honour when women are believed to breach social and sexual boundaries. Women's bodies are seen as objects for ruining and hence, restoring the family's honour. Overt love relationships, sexual relations before marriage, and contact with unrelated men are all considered dishonourable practices by certain sections of society. Therefore, women's behaviours and conduct are closely scrutinised and restricted.

NGOs working on women's rights have long been trying to open up a space for society to discuss these issues and explore avenues to generate change on gender issues. As a result, there has been an increased awareness about violence against women, especially in the case of honour killing and female genital mutilation (FGM). However, it wasn't until the establishment of the High Committee to Combat Violence against Women⁵ that violence against women was legally considered a crime. Still, the Law against Domestic Violence is not defined in terms of gender-based violence, but focuses on the negative impact that domestic violence has on the wellbeing of the family as a whole. While official and legal sources in the Kurdistan region limit violence against women to the domestic and private space of the family, NGOs use a wider understanding, which expands to the public sphere as well.

⁵ http://www.ekrg.org/files/pdf/combat_domestic_violence_english.pdf

The regional government's support for enhancing women's status and dealing with problems women are facing within the family and in society cannot be denied. Government initiatives started relatively late, but some concrete efforts have been made, like for example, the establishment of the monitoring boards part of the Commission on Violence against Women⁶ and the High Council of Women's Affairs.⁷ The High Council of Women's Affairs works on promoting the position of Kurdish women, advising the government on key pertinent policies, and developing strategies for the government and its ministries on women's issues.

Other efforts by the government include legal reform to lenient laws, the establishment of shelters, data collection, the provision of support services, and training for staff. The article on honour killing was changed and a directory to follow up on cases of violence against women was established. Today, there are special courts for domestic violence in all three Kurdish regions and gender units exist within government ministries. Most significantly articles in the Personal Status Law have been changed. For example, new restrictions were introduced on polygamy.

Another important step taken by the KRG has been the development of the Strategy on Combating Violence against Women⁸ in 2012 prepared by the High Council for Women's Affairs and the United Nations Population Fund (UNFPA). In addition, the Kurdish regional parliament's has increased the quota of seats allocated to female representatives from 25% to 30% (the comparable quota in the Iraqi parliament remains at 25%). Female genital mutilation was banned in 2011. The Law against Domestic Violence, which was passed in 2011, specified ways to help victims and hold perpetrators accountable. In this context, the government's willingness to work with international actors, the UN and civil society has helped even further increase attention to gender issues.

⁶ <http://www.krg.org/a/d.aspx?r=223&l=12&s=02010100&a=24188&s=010000>

⁷ http://www.ekrg.org/files/pdf/High_Council_Womens_%20Affairs_English.pdf

⁸ http://www.ekrg.org/files/pdf/strategy_combat%20violence_against_women_English.pdf

Female members of different political groups established the women's peace group to encourage women's participation in political life and in peacekeeping activities as part of negotiations. Gender mainstreaming in policy-making has been undertaken in six main areas in general:

- Education
- Economy
- Health
- Participation in decision-making
- Access to resources
- Equality in the legislation field

In the context of statebuilding, gender mainstreaming highlights the relationship between decentralisation in the KRI and increasing female political participation at both local and national levels. One of the presenters suggested that, in addition to advocacy for women's rights and female political participation, emphasis should be put on encouraging women to be active citizens by getting involved in local governance. Iraq approved the process of decentralisation in 2005 through a referendum. When decentralisation works well, it can have many benefits including wider popular participation, the expansion of the activities of the civil society and more transparency. Although relevant laws were introduced for decentralisation, there has been a significant lack of practical information provided to citizens on how participation would take place.

LIMITATIONS TO ENHANCING WOMEN'S RIGHTS

Despite the positive developments summarised above, and the clear political will to bring on change, certain limitations and shortcomings which still exist, were raised during the workshop. These include:

- Lack of commitment among the majority of politicians;
- Limited legal reform and strong resistance to legal changes;
- Weaknesses in implementing new laws and rules;
- Lack of cooperation between the government and NGOs;
- Lack of follow-up and monitoring;
- Absence of expertise and professionalism;
- Insufficient support and protection for victims.

Significant legal restrictions in the nature of the amended laws and in their implementation were explained in more detail. Although Iraq has adopted CEDAW, both Iraqi and Kurdish regional governments are still not ensuring compatibility between CEDAW's international standards and the laws they pass. Examples of existing Iraqi laws that are not compatible with CEDAW include:

- **Nationality:** Children born to Iraqi women and foreign men cannot inherit the Iraqi citizenship.
- **Penal code:** Some changes have been introduced to the mitigation circumstances but not to the law as a whole, which justifies honour killing.
- **Sexual crimes in penal code:** If a man rapes a woman then marries the victim, the charges against the perpetrator would be dropped.
- **Divorce:** Any man can end a marriage without his wife's consent. However, a wife needs her husband's approval to get divorced.
- **Underage marriage:** The Iraqi law sets 16 as the minimum age of marriage, two years lower than that set by CEDAW.
- **Polygamy:** Restrictions were introduced by the KRG to restrict polygamy. However, this cannot be fully implemented as men can marry in other parts of Iraq and their marriage won't be nullified in the Kurdistan region.
- **Inheritance:** Inheritance laws still discriminate against women.
- **Marital rape:** Legally, women can complain against their husband for being raped. However, in practice, police officers rarely follow the given procedures and sometimes refer the issue to tribal leaders.
- **Femal genital mutilation (FGM):** Punishment for the perpetration of FGM is very difficult. This crime is usually committed against very young girls, usually under the age of 7, who cannot be expected to report it. Although it is banned, there is not sufficient follow-up with communities who practice this crime.

Even lawyers tend not to mention CEDAW's principles during court proceedings in the belief that judges would not take them into consideration. Many judges usually disregard international treaties because they consider national and regional laws to be more important. This is also partly due to the important role played by tradition.

The existence of varying personal status laws was also indicated as another significant legal limitation in ensuring women's rights. Article 41 in the Iraqi Constitution provides legal context for communities-specific laws to be proposed. For example, Shia' Muslims have recently prepared their own *Ja'fari* law to pass to the Iraqi parliament. Christians are also preparing their own personal status law for submission. However, in order to achieve a significant positive impact on the lives of women in society, a standard personal status law applicable to all communities equally is needed.

The absence of Gender Responsive Budgeting, which makes it difficult to practically implement laws, was raised as another hurdle by many participants. Although the UN is trying to set one up in the KRI, the help and cooperation of local government and other actors is still necessary. Examples of successful implementations of Gender Responsive Budgeting can be found in South Africa⁹ and Morocco¹⁰.

Despite the changes in laws and regulations to help increase women's political participation, this still hasn't been fully achieved. Historically, women in the Kurdistan region have always played an active role in the political life at different levels. Therefore, women's political participation is not a completely novel idea. Moreover, the 2005 Iraqi constitution formalised 25% female representation in the parliament and political parties, which was increased to 30% by the Kurdistan regional parliament. However, despite the fact that women were given the chance to be politically active, their participation is still limited today by never exceeding the requirements by law. Even though many women have run for elections, only a limited number of them receive the sufficient number of votes to be designated. The rest of the female candidates become members of parliament thanks to the quota.

Hence, the limited participation of women in political and public life is not only due to the shortcomings of the government. The adequate environment for political participation is there, but other factors still play a significant role in restricting women's engagement.

These include the lack of awareness of the rights and how to claim them, lack of confidence, economic dependence, the burden of other responsibilities, and the negative role of religious and tribal authorities.

THE ROLE OF THE UN AND INTERNATIONAL NGOS

The UN influences gender issues in the KRI in two ways, the first in practical terms and the other as a normative political force through the use of conventions and international resolutions. The UN's presence in the KRI and its influence on women's issues can be categorised into three main periods:

- **1991-1996:** Operation Provide Comfort and humanitarian support. During this period, the UN passed sanctions against Iraq, which evidently affected women. Many academics criticise the UN for not doing enough to support statebuilding in the Kurdistan region at that time, which saw a decline in women's participation in public and political life.
- **1996-2003:** Oil-for-Food programme. Ration-based imported food baskets were distributed by the UN, which damaged the local agricultural sector led by women, destroying with it the prevailing social structure. However, the UN's role wasn't entirely negative during this period. It set up programmes for women-led households, hundreds of schools were built and a space for NGO work was created. Many argue that feminism in the KRI flourished during this period, which was helped by the presence of international NGOs.
- **2003-Present:** This period is characterised by institution-building in the context of statebuilding and formal UN presence. The mandate UN Assistance Mission for Iraq's (UNAMI) presence in Baghdad, along with its first official separate office in Erbil and the presence of the Human Rights Office placed an important role in encouraging women's rights in the Kurdistan region. The increased separation between work in Erbil and Baghdad has led to a distinct institution-building in the KRI. Relative stability in the region helped expand the work of other UN agencies, including the UNFPA, the United Nations Development Programme (UNDP), UN Women, and UN Habitat. These organisations not only worked on the ground, but also developed programmes that aimed at enhancing women's social, economic and political

⁹ http://www.gender-budgets.org/index.php?option=com_joomdoc&view=documents&path=resources/by-region-country/africa-documents/south-africa&Itemid=540

¹⁰ http://www.gender-budgets.org/index.php?option=com_joomdoc&view=documents&path=resources/by-region-country/arab-states-documents/morocco&Itemid=541

status in the society. These activities coincided with the Millennium Development Goals¹¹ and the UN's aim to develop its work on gender globally.

Health and education are key areas for enhancing women's social status and political and economic participation, which the UN can claim some credit for developing. Without the UN's financial support and leadership, progress would have remained limited. The organisation also provided practical support, conducted surveys and generated statistics, which raised awareness and helped support women's rights claims. In addition, the UNAMI Human Rights Office plays an important role in accountability and establishing standards. For example, a bi-annual report, which they publish with a section dedicated to the KRI, introduces public accountability for the government. However, while the UN highlights some issues and brings them to the table, political will is still necessary for the implementation of any change.

While many participants indicated the positive impact of the UN, as well as other international organisations, on tackling women's issues and in supporting local NGOs' work on women, there were criticisms raised regarding their involvement. Firstly, when statebuilding is managed and influenced by international organisations, hierarchies among local NGOs emerge as some NGOs can access funding while the rest face closure or have difficulty in pursuing their activities. This constitutes one of the factors for the divisions among women's activists in Kurdistan. Secondly, the need to seek help from international actors, and adopting and incorporating international norms and practices should be questioned. Kurdish society has the ability to generate change on its own, therefore, advocacy should come from the society rather than being introduced via foreign actors. Iraq has a high GDP and has the financial capacity to support civil society activities on women's issues, introduce changes and enforce them. Therefore, the UN could stop providing funds and dedicate its resources to its normative work and its role in acting as a support framework rather than an active player. Besides, based on the Security Council's mandate, the UN's main role is to push legislation behind the scenes and not to run the country.

Responses to the above mentioned points were two-fold. Firstly, financial support provided by the UN to local NGOs is decided upon the demonstration of certain requirements, which, it was claimed, not all local NGOs meet. Secondly, it was argued that there is a need for

even more active UN involvement and increased support from UN agencies. Women's organisations before 1990s were tied with political parties, who offered them power and funding. The arrival of the UN and other international NGOs provided new opportunities for those groups who are not affiliated with main political parties to take part in the debate by, for example, offering them support when dealing with the government and official structures.

CONCLUSION AND POLICY RECOMMENDATIONS

Workshop participants examined and discussed the progress achieved in enhancing women's status and protecting women's rights in the KRI, opportunities for additional improvement, policy recommendations and potential areas for further research. All participants acknowledged the ongoing change in attitudes towards women's issues and their participation in social, economic and political life. They also recognised that many of the problems have been addressed or are in the process of being addressed. However, a need to adopt a more holistic response and strategy was often highlighted throughout the workshop; a strategy that should address the tension between conservative and progressive forces in society. Recommendations suggested during the workshop are as follows:

- **Different attitudes towards gender relations in rural vs. urban areas.** It was suggested that structural and cultural differences between urban and rural areas should be researched and analysed. Upon the identification of issues and causes of problems specific to each environment, appropriate measures and policies should be developed and implemented.
- **Ineffective implementation (or lack of implementation) of existing laws.** In order to address this issue, suggestions were made mainly on the following: Firstly, institutional weaknesses that lead to ineffective implementation should be identified and eliminated. In this context, the most urgent improvement would be training enforcers such as police forces, lawyers and judges and developing effective monitoring methods. Secondly, budgets for training staff and monitoring results should be allocated, or where they already exist, should be expanded.
- **Role of political parties in the KRI.** Political parties are at the centre of statebuilding in the KRI. They are often more important than other institutions, mainly because they have the appropriate tools and resources

¹¹ <http://www.un.org/millenniumgoals/>

to create impact. However, stronger political parties might be complicating the statebuilding process as they have differing aims and projects. Despite this, political parties could have a positive impact on relief work, effectively combating crime and enforcing the law, through generating unified strategies.

- **Changing of personal attitudes and perceptions.** In this context, it is very important for women's activists to engage with men in order to raise awareness. Every member of society should demand the implementation of existing laws and take advantage of the existing institutional context to improve their rights. Social pressure to effectively apply rules and to further develop them requires raising awareness. Therefore, changing the dominant mentality amongst men, women and the youth should be integrated into government policies through tangible and appropriate strategies. Changes to the institutional context will help change attitudes, which in turn will lead to more effective implementation of laws and policies.
- **Education.** Democratisation and institution-building in the KRI require a more extensive and deeper incorporation of social dimensions into the development of strategies and their implementation. In this context, formal education, as well as informal education, should play a significant part in this strategy. In addition to the on-going government work to remove barriers to education facing girls, there should be more work done on increasing awareness amongst children and young members of society on gender relations. This should start at primary school and continue on to university level. For instance, boys and girls should be co-educated at a younger age in order to help eliminate the intrinsic binary views on gender and perceived hierarchical relations between men and women.
- **Role of the Media.** The media play a hugely significant role in raising awareness of persisting problems, and existing and potential rights and responsibilities. Firstly, a thorough analysis of the negative and positive role played by the media in the discourse on women's participation and gender-based violence is necessary. Therefore, more academic research should be undertaken in this area. Secondly, strategies should be developed for the media to effectively increase awareness of physical violence experienced by women, as well as structural and cultural violence that affect women's access to social and economic opportunities. Most of the existing news stories, movies and TV series perpetuate and recreate hierarchical

gender roles, relations and perceptions. Therefore, opportunities for media initiatives that attempt to change perceptions on gender roles through generating and using the appropriate and accessible language and messages are required. Linked to this, role models should be incorporated into the discourse and their achievements and profile should be used as a positive agent for change. This should be conducted in an inclusive manner, which integrates the achievements of these prominent individuals and their implicit messages into the discourse and language of society.

- **Democratisation and strengthening of local governance in the KRI.** More training and practical information about the processes of participation in local governance should be provided to all members of society. Through participation, knowledge can be fostered and social and political capital can be generated. Therefore, debate on women's issues in the KRI needs to aim at more ambitious objectives; not only focusing on demanding rights but also situating these demands within the context of democratic governance. Civil society, individuals and politicians should position their goals within the bigger picture, which is a system of decentralisation, and look for opportunities to find solutions within that context. Therefore, participation in governance at local levels can be used as a route to more active female involvement in decision-making and shaping the future of the region for all members of society.

Middle East Centre

London School of Economics
and Political Science
Houghton Street
London WC2A 2AE

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