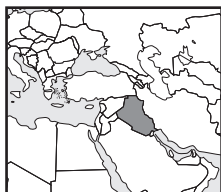


Women's empowerment: a misunderstood process



The 2005 Iraqi Constitution strove to include a number of positive measures for women's empowerment; however, a culture of equality of access and opportunity is needed in addition to legislation. During this transition period, women have not only lost most of the benefits hitherto provided by the State; they are disproportionately affected by the shrinking of the State's power, the insecurity arising from political instability, the breakdown of economic activities due to the war; and the deterioration of social structures. Increased violence against women requires urgent intervention from all actors in society.

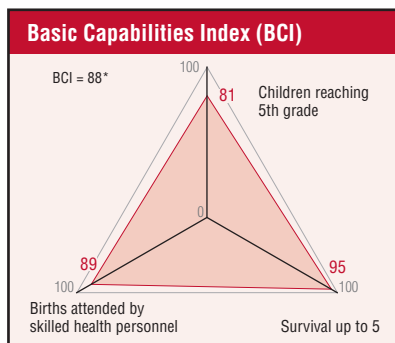
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Experience in many countries has shown that transition to democratic rule can help remove institutional and cultural obstacles to women's empowerment. For this to happen, however, women must themselves advocate for equal rights. Moreover, while emerging democracies have the opportunity to reform societies by establishing basic freedoms, democratic government, free markets and human rights, the insecurity associated with conflict can undermine such important outcomes. When transition takes place in the midst of a conflict, the need for a stable democratic system becomes the main priority and can eclipse the imperative of equality. If that happens, the transitional phase may increase, rather than decrease, the prevalence of gender inequality.

The State's role and transition

Since the establishment of modern Iraq, the State has created opportunities for the institutional empowerment of women through wider access to education, health services and job training. Their professional levels have risen, especially in the more socially accepted fields of education and health services. For instance, in the period 1997–2004, 68% of teachers were women, and the overall rate of women's participation as medical staff was 30–60%. Before 2003, women represented 46% of public sector employees, and were the main providers of services and social benefits in health and education, especially in areas benefiting women. Yet the State has shown no real awareness that empowerment is not achieved solely through enacting legislation but comes about only when society puts these laws into practice – which in turn demands cultural changes. Women's empowerment requires a culture of equality of access and opportunity.

Transitional stages often entail a review of the role of state institutions and mechanisms in order to better adjust to realities and enhance equality among citizens. However, reforms in Iraq have been accompanied by the dismantling of the State, which could



then no longer fulfil its responsibilities or provide key services in the transitional economy. Neither the private sector nor civil society has been able to step in to provide such services, and women have lost most of their social benefits, including state-sponsored childcare.

Development indicators, employment and assets

The imposition of sanctions and the growing political and economic crisis, with the insecurity and conflict it has bred since 1990, have meant that women have not fared well compared to men in recent decades. They are worse off on several key human development indicators. In 2007, although women's life expectancy (62) was much higher than that of men (55), 30% of women aged 15 and up were illiterate compared to 14% of men. Combined school enrolment rates (primary, intermediate and secondary) were 55% for females and 68% for males. Unemployment rates were also higher among women: 23% compared to 16%. Women's earned income is only 11% of men's. Agricultural work constitutes 60% of total working hours per week for women and only 22% for men. This helps explain their low income, as agricultural work for women is known to be mostly unpaid and of lower productivity. In 2007 the Human Development Index for Iraq was 0.627, while the Gender Development Index was 0.584.

In general, the rate of women's participation in Iraqi economic activity is considerably lower than men's participation (21% compared to 79% in 2004). The transition towards an open market economy may provide both more opportunities and more challenges for Iraqi women. The opening of

the market may provide new opportunities in the private sector, but it will also increase competition for jobs and require skills that the education system imparts unequally. In addition, there will be fewer jobs for women in the public sector. Article 23 of the 2005 Constitution guarantees "the right of the Iraqi to ownership" without any discrimination based on gender. Although no data exist to measure ownership of such assets as land, property and businesses, it is safe to say that women in general possess fewer financial assets than men. For example, the vast majority of land and housing units are registered in the names of men, and men clearly dominate in private sector ownership and management. Female heads of household – this is 11% of the total households – also own fewer assets than other women.

Women's personal status

The new Constitution of 2005 strove to include a number of positive measures for women. Women may pass now on their nationality to their children, for example (Article 18). However it contains a number of articles, clauses and implications that could be considered discriminatory. For instance, Article 41 states that "Iraqis are free to abide by their personal status according to their religion, beliefs, doctrines or choices", which may allow for different interpretations of Islamic *Sharia*, resulting in barriers to legal equality, especially in matters of civil code such as marriage and divorce. Varying interpretations could set up different practices in different provinces, in rural and urban populations or among members of different religions. These provisions are seen as a step backwards when compared with the provisions of Law No. 188/1959, which regulate all matters relating to marriage, divorce, inheritance, guardianship and custody of children for all Iraqis, regardless of sect.² Indeed, Article 41 of the Constitution contradicts the fundamental guarantee found in Article 14 of the Law that "Iraqis are equal before the law with no discrimination because of gender or

² This law – which included the right to retain the marital home after the divorce for a period of three years, equal marriage age for female and male, equating the dowry of women in divorce with the price of gold at the time of divorce, and requiring the husband to prove financial ability to maintain a second wife before contracting a polygamous marriage – was subjected to diverse amendments over the years, mostly detrimental to women.

* There are no available data on GEI.

¹ Lead author of "Iraq: National Report on the Status of Human Development 2008." This article is based on facts and analysis of that report, which is available at <www.iauiraq.org/reports/NRSHD-English.pdf>.

race". Such a contradiction compromises the unity of universally applicable legislation.

When it comes to providing protection for, and prohibiting violence against, women, constitutional and legal provisions alike may be inadequate. The Constitution, for example, does not refer specifically to women when it addresses the issue of violence in the chapter on rights. Article 4 does not consider marital violence as a specific crime. Article 44 states that "the Iraqi is free to move, travel and reside inside or outside Iraq", but in practice the law does not allow a woman under 40 to obtain a passport without the permission of a guardian. Another example is that women have the right to equal wages, but the law does not provide binding provisions to guarantee equal promotion. Thus, even where the Constitution provides for *de jure* non-discrimination against women, legal, social and cultural factors often represent *de facto* obstacles in the way. The legal and legislative climate in the Kurdistan Region seems to be more positive towards women. For example, the Personal Status Act No. 188, drafted in 1959 but considered progressive for its time, is being applied there, and the Commission on Women's Affairs has succeeded in introducing some amendments. In 2007, additional conditions were imposed in cases of polygamy, female circumcision was prohibited and regulations concerning divorce were changed to make them more favourable to women.

In 1986, Iraq ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), with reservations to Articles 2, 9 and 29. Those reservations effectively nullify the Convention's provisions for equality between women and men. Since the beginning of the transition in 2003, women's organizations have tried without success to have these reservations removed. The Constitution further does not include any article acknowledging the ratification of international conventions as binding. In any case, the new regime has rejected commitments to international conventions ratified by its predecessor, in particular CEDAW, on the basis of contradiction with the *Sharia*.³

Bringing women into decision-making

A quota system for women in political life was introduced in 2003 and the new Constitution also provides for affirmative action, granting in Article 49 a quota for women of no less than 25% of the seats in Parliament. Electoral Law No. 6 of 2005 also stipulates that election candidate lists should abide by this quota. In the 2005 elections, women gained 87 out of 275 seats in the National Assembly (31%). In local council elections from closed electoral lists

they gained 28% of seats. Additionally, adherence to the quota system significantly raised the number of women elected to governing councils. Since 2003, the number of women in administrative decision-making positions has increased from 12.7% to 22.4%. Although they represented only 2% of the judiciary in 2006, they fared better in the executive. In 2006, there were four female cabinet ministers, and 342 high-ranking officials, including 8 under-secretaries, 33 counsellors and inspectors general, 86 directors general, and 215 assistant directors general. However it should be noted that the hurdles women have to surmount to reach and retain these opportunities are higher and more numerous.

A legacy of cultural restrictions

For women, cultural heritage – which is formed by tradition rather than by religion – is one of the basic references in forming notions of acceptable conduct. A stereotypical image of women has lasted for centuries because the State, throughout its history, has helped perpetuate it to avoid entering into conflict with society and its religious and cultural leaders. So ingrained has this image become that, as several studies have shown, the view some women hold of their own sex is not altogether different from that held by men.

Women's acceptance of this false image provides the State with the rationale to delay enacting legislation that would improve their situation. Their seclusion is also justified by society as a means of ensuring their protection. In this way, the family remains the most resistant pocket of cultural bigotry against women, where male violence is accepted as a disciplinary or preventive right. For instance, a report by the Ministry of Human Rights in the Kurdistan Region indicates that 239 women were driven to set fire to themselves during the first 8 months of 2006. This situation is not very different in other areas, and honour-related murders are common in the centre and south of Iraq. It is probable that such practices have been under-reported owing to the undeveloped monitoring capabilities of women's organizations as well as to media biases.

Conclusions

The empowerment of Iraqi women should be an overarching goal, not a side objective, as women have an equal part to play in overall economic, political and social development. Yet evidence shows that Iraqi women are disproportionately affected by the shrinking of the State's power, the insecurity arising from political instability, the breakdown of economic activities and the deterioration of social structures, all resulting from ongoing conflicts. Increased violence against women is currently the most dangerous consequence of the transition and requires urgent intervention from all actors in society. Seeking protection, women have retreated to their community, sect or

tribe, thus reversing the gains of almost a century of modernization undertaken by the State itself.

Lack of security has hampered progress in human development and damaged mechanisms for genuine empowerment. But there is still an opportunity to improve the situation of women. The specific responsibilities of the State include to:

- Amend laws (and the Constitution) to eliminate provisions, omissions and contradictions that perpetuate discrimination.
- Ensure freedom of opinion to encourage public debate and dialogue; there is a need for public consciousness-raising campaigns and deep changes in media stereotypes of women.
- Create a new labour environment that sets aside the present division of labour based on limited roles for women and their restriction as workers to sectors of weak productivity.
- Confront the culture of domination and marginalization and disseminate a culture of peace and tolerance to eliminate violence against women in all its forms and put an end to its perpetuation as part of accepted culture.
- Open up new opportunities through reform of the lending system in public banks, by lifting the requirement for real estate as collateral and by encouraging women-friendly banking services.
- Reform educational systems and curricula to change society's perceptions of violence against women, and instil a sense of common responsibility for ending it.
- Expand access to micro-credit projects and home-based work for women with limited education and training, rural women, the elderly, and widows supporting families.

By taking a firm stand on a culture of human rights, equal opportunities and gender equality, the Government could dispatch the centuries-old culture of discrimination against women in Iraq for good. ■

³ The same rejection applies to UN Security Council Resolution 1325 on women, peace and security.