



Identifying legislative gaps in the implementation of UN Security Council Resolution 1325 on Women, Security and Peace

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Baghdad Women Association in cooperation with I mentor for coaching and development



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Baghdad Women Association

Baghdad Women Association

BWA was established in 2004 and it's a local independent non-governmental organization registered with the NGO's directorate (1017090).

Its vision is to advocate all kinds of violence against women and girls and guarantee legal security, equality, respect and all human rights for them.

Its message is to work on reducing violence against women and girls by providing all the necessary support services for GBV survivors, and call to implement policies, appropriate laws and governmental programs, also to work on increasing women political participation by improving leadership through knowledge, development and capacity building.

I mentor for coaching and development:

A private, leading, independent, and development company, officially registered in the companies' registration directorate with a positive and sustainable social impact.

Its vision is to improve the performance of individuals, groups, governmental and non-governmental institutions including local and national organizations and private sector offices and companies, through training, motivating, inspiring, provoking ideas, institutional assessment and development, performance monitoring and trace assessment, offering consultations, implement programs and scientific, educational and developmental projects using modern and renewed methodologies by experts and specialists who are adopting sustainable impact, professional and entrepreneurship principals.

Monitoring and Advocacy for the Implementation of Iraqi National Action Plan for UNSCR 1325

This project was planned by Baghdad Women Association and resolution coalition 1325 to support the implementation of the Iraqi National Action Plan for UNSCR 1325. This project aims to enhance accountability and monitoring the central government and Kurdistan regional government while implementing the Iraqi National Action Plan for UNSCR 1325. The project includes multiple activities including this study, in addition to:

Assessing and monitoring the process of implementing the Iraqi National Action Plan starting by providing support for the national team in designing a monitoring and assessment plan, create a joint language with civil society organizations, building the capacities of the secretariat's national teams and the civil society organizations specialized in this field, in addition to making assessment & monitoring mechanism to be adopted by the national team during the next four years and using a shared effective and professional approach that guarantees the effective participation of the civil society organizations, activists, experts and media people in the monitoring process.

The advocacy campaigns based on encouraging the governments to provide the financial support and required human resources to guarantee the effective implementation of the Iraqi National Action Plan by making field studies and establishing forums to discuss women cases especially the cases related to women participation in the negotiation and decision making process for peace building and security efforts and protecting women from violence in addition to the legislative reforms and discriminative laws and any other social phenomenon or governmental policies and cultural favoritism against women. Community mobilization mechanisms will be used like radio programs, advocacy campaigns, distributing brochures and using other social media means in addition to other tools that can impact the decision makers like meetings and interviews with related parliament committees and responsible people in the implementing ministries in the central government and Kurdistan Regional Government.

Introduction

During the dominance of the patriarchy in most periods of history, and the fact that conflict resulting from need and not harmony is what actually governs the nature of human relations, women have always suffered from the fragility of the situation and marginalization, as do

children and the elderly, during armed conflicts and beyond, whether internal or international, as these conflicts bring them from general scourges, in which fragile and marginalized groups become the most vulnerable to suffering and exploitation and an extended series of violations, and with the development of human awareness about the violations that women are subjected to, especially during armed conflicts, ways to disclose this are provided through public opinion, and increased international attention to the need to stop this suffering.

The twentieth century witnessed a qualitative shift in the field of seeking to improve the situation of human rights in general, and women's rights in particular. This shift was in terms of not only defining and clarifying concepts, but also came to occur in a qualitative shift in terms of priorities and standards, from imposing restrictions during conflicts to encouraging countries to take positive actions in peacetime as they do in wartime.

These efforts were concluded in the adoption of the first UNSCR No. 1325 of 2000, which protected women through the provisions imposed by that resolution. It is noted that the provisions of the resolution are valid in Iraq during and after armed conflicts, and strengthening their position in society. It is further noted that the resolution works to strengthen the relationship between international human rights law and international humanitarian law for the implementation of the former in peacetime and the application of the latter during armed conflicts.

Research importance:

The importance of the research highlights the clarification of UNSCR 1325 related to Iraq and the legislative gaps that violate the right of Iraqi women in international and non-international armed conflicts and their aftermath and the extent of implementation of this resolution on

these conflicts, to expose women to serious violations of international and internal law such as violence, displacement and trafficking, and violate their rights to Iraqi Penal Code No. 111 of 1969, Personal Status Law No. 188 of 1959 and Civil Code No. 40 of 1951.

This study comes in the context of the advocacy campaign for an optimal implementation of the Iraqi National Action Plan (INAP) for UNSCR 1325, as it highlights these gaps and provides a solid starting base for effective advocacy campaigns implemented by civil society institutions aimed at amending these laws and closing legislative gaps, which contributes to supporting and maintaining protection mechanisms of women during and after conflicts.

Also, this study will contribute to enriching the Arab Library in the field of women's rights and the international conventions supporting it, which will assist researchers in the future to conduct research and other studies based on the outputs of this study.

Research problem:

Failure to implement UNSCR 1325 during and after armed conflict is an illegal act because the Security Council is the guardian of protecting international peace and security in addition to that it degrades the dignity and worth of women due to the serious consequences that affect the life of women, their family and society as a whole, and it highlights the research problem on Iraq's violation of UNSCR 1325 and the non-application of its provisions on legislation related to women in light of armed conflict and beyond, and this leads us to question whether Iraq

has applied the provisions of UNSCR 1325 related to women, and this leads us to other questions that we will answer in this study:

- To what extent are the provisions of UNSCR 1325 related to women in Iraq applied during armed conflicts, whether international or non-international?
- What are the internal laws that distinguished between men and women and their non-application of UNSCR 1325?
- What are the violations suffered by women in international laws, the constitution and domestic laws.

Research objective:

The research aims to shed light on the legal gaps related to Iraqi women during armed conflicts, whether international or non-international, and the extent to which legislation is implemented in accordance with the provisions of UNSCR 1325 of 2000.

Research Methodology:

The research methodology is based on the analytical approach in extrapolating international and national legal texts that concern women and then applying them to UNSCR 1325.

Research Structure:

The research is divided into two topics:

1- The first topic, women's rights during armed conflict:

The first requirement is women's rights in international armed conflicts.

- The first branch, violence against women.
 - Physical torture.
 - Rape.
 - Human trafficking.
- The second branch, The Displacement of Women.
 - Internally displaced people.
 - Refugees outside the country.

The second requirement is women's rights in non-international armed conflicts.

2- The second topic, women's rights in the national laws:

The first requirement is women's rights in the Iraqi constitution.

- First branch: Civil and Political Rights.
- Second branch: economic, social and cultural rights.

The second requirement is women's rights in national laws.

- First branch / Women's Rights in the Penal Code.
- Second branch / women's rights in the Personal Status Law No. 188 of 1959.
- Third branch / Civil Law.

3- The most important results and recommendations.

First topic / Violation of women's rights in armed conflicts:

Women have suffered from successive conflicts in Iraq, especially since they were marginalized for many decades, due to the inferior view

that women were perceived as less able than men and that the emergence of armed conflicts in Iraq had increased their marginalization, due to lack of security, but women are really the basis of the family in societies, and yet, their rights are still violated during armed conflicts, and those violations are represented by violence against women in all its forms such as killing, rape, forced displacement and other; those conflicts are divided into:

international armed conflicts, and non-international armed conflicts, where we will outline violations in those conflicts in two requirements, we will address the violations of women's rights in international armed conflicts in the first one, and in the second one, we'll discuss violations of women's rights in non-international armed conflicts as follows:

The first requirement / Violation of women's rights in international armed conflicts.

- 1- For about six decades in the past, women in Iraq were among the most prominent victims of armed conflicts, starting with the Iraq-Iranian war in the 1980-1988 and the second Gulf war in 1991 number of women in decision-making positions, and excluded from negotiations in conflict resolution and national reconciliation process and the formation of the government, where all the political blocs of liberal and religious were involved in the exclusion of women from the positions of sovereignty, women remained absent in the governing bodies of all (presidency of the Republic and the presidency of the Council of

Ministers and the presidency of the Parliament, also in the “Supreme Judicial Council” and “Supreme Courts” ““ Federal Supreme Court ”.

Also, large number of women suffered from killings, kidnappings and threats, and the increase of sexual harassment, as the weakness of law enforcement led to impunity for perpetrators. note that the SCR on Iraq 1483 issued on 22/5/2003 stressed the necessity of activating the Security Council resolution No. 1325 for the year 2000 To guarantee equality in rights and justice for all citizens without discrimination. Despite the passage of a contract time on that resolution, and based on UN Resolution No. 1889 of 2009, a group of Iraqi civil society organizations prepared a draft national plan for the implementation of the UN resolution. In 2014, its implementation began through the formation of a higher committee and sub-committees in every ministry and non-ministerial institution, and in partnership with non-governmental organizations for the period 2014-2018. This year, I prepared a draft of the second national plan for the years 2020-2024, which benefited greatly from assessing the obstacles and factors that were an obstacle to the implementation of the first plan in the way that Iraqi women aspire to in order to reduce the violence and discrimination against women during periods of internal and external armed conflicts. As well as activating and strengthening the participation of women in decision-making and their assumption of senior positions in all institutions and areas of life.

It is noteworthy that many feminist civil society organizations have adopted various activities to introduce the importance of UNSCR 1325 to women in particular, as well as to various social and political circles. An analytical study on “Ways to Enhance the Participation of Women in Conflict Resolution and Peacebuilding in Iraq” was published in February 2009, prepared by an Iraqi civic team, and published in Arabic by the ESC Economic and Social Commission (ESC).

Since 2012, a number of local civil society organizations have participated in the European Feminist Initiative (EFI) in a group called INAP to formulate the first Iraqi Kurdistan Regional Action Plan referred to above, and the assembly also includes a number of members of Parliament and the Kurdistan Region at the federal level. Iraq, in addition to specialists in law and gender. The group worked as a team between the various sectors in three committees, the “drafting committee, the legal committee, and the financial committee” and reached the preparation of the draft of the first national plan in Iraq for the period 2014-2018, which was implemented with the participation of all governmental and non-governmental institutions.

2- International conflicts are governed by Common Article Two of the four Geneva Conventions, which states that (In addition to the provisions that are enforceable in time of peace, this convention shall apply in the event of declared war or any other armed clash that occurs between two or more of the High Contracting Parties,

even if Neither of them recognized the state of war. This convention also applies in all cases of partial or total occupation of the territory of one of the High Contracting Parties, if this occupation does not face armed resistance, and if one of the countries in the conflict is not a party to this agreement, then the states parties to the conflict remain bound by it in Their mutual relationships). It is also bound by the convention vis-à-vis the aforementioned state if the latter accepts the provisions of the convention and applies it, and the provisions of the First Additional Protocol of 1977 supplementing the Geneva Conventions apply all the situations referred to above.

3- Iraq has gone through three international armed conflicts since the establishment of the Iraqi state, the first of which was the first Gulf War between Iraq and Iran in 1980, the second the second Gulf War between Iraq and the thirty-year coalition forces in 1991, and the third (the occupation of Iraq) by the US coalition forces in 2003, but the axis of the study will focus on the recent conflict, as related to the issuance of Security Council Resolution No. 1325 of 2000, meaning the violation of Iraqi women's rights in international conflicts after the issuance of the aforementioned resolution, and the extent to which the Iraqi government conforms to its provisions.

It is recognized that these conflicts negatively affected the reality of Iraqi society in general, and women in particular, and left a lot of suffering, pain, and deterioration of economic, social, political, civil

and cultural conditions, and consequently the difficulty of comfortable living, anxiety and fear, and other things left by international armed conflicts. By explaining these violations of the rights of Iraqi women in the following sections, we will discuss in the first section violence against women, and in the second section the displacement of women.

First section / violence against women

Violence against women is defined as any act of gender-based violence that leads to sexual, psychological, or physical harm or suffering to women, and this includes threats to carry out acts similar to that, or coercion or arbitrary deprivation of liberty, whether this occurs in life Private or public.

Women enjoy the protection of the Fourth Geneva Convention for the Protection of Civilians in 1949 and the First Additional Protocol of 1977, in any international armed conflict, and they also benefit at these times from all texts that contain the basic principle of humane treatment, including respect for physical integrity, dignity and life, which are strictly prohibited. Especially coercion, corporal punishment, torture, acts of revenge, hostage taking, and collective punishment, and their right to request that the perpetrators of these violations be trialed before an impartial court formed according to the law.

Girls and women are among the civilian population, and they are usually exposed to direct and indirect hostilities because they are victims of many acts of violence in times of armed conflict, and because they suffer from bombings, indiscriminate attacks, lack of food, and other essential necessities that are essential for their survival and the preservation of their health. Violence against women takes multiple forms, including:

1. Sexual violence:

Many women have been subjected to cases of murder, kidnapping and threats, the widespread phenomenon of sexual harassment against them, and the impunity of criminals due to the weakness of the state apparatus, despite the fact that the Security Council Resolution on Iraq No. 1483 issued on 5/22/2003 confirmed the necessity of activating Resolution 1325 in order to Ensuring equal rights and justice for all citizens without discrimination. Although much time has passed since that resolution, the Iraqi government did not fulfill its obligations towards it, and did not adopt a plan for the resolution at that time, as called for by Security Council Resolution No. 1889/2009.

Women in Iraq are subjected to various types of family violence continuously throughout Iraq as a result of the increase in violence due to the poor security conditions, because it is known that violence against women is exacerbated by the exacerbation of armed conflicts in the country, as the number of women who are subjected to

domestic violence within the family is estimated at (11167). For the period between (2003-2010).

This contradicts Security Council Resolution 1325 of 2000, which called on all parties to armed conflict to take special measures that protect women and girls from gender-based violence in situations of armed conflict.

2. Rape

There is no single definition agreed upon in international law. Rather, it can be defined as having sex with a person without his consent by means of intimidation and force, as well as the sexual contact of a man with a woman without her consent. Rape is the most severe sexual crime that individuals are exposed to, whether they are women, men or children.

The reason why women are subjected to rape in armed conflicts is nothing but violence directed at the social group to which the woman belongs, as a humiliation for her group, especially since the emotions of hatred and revenge for past mistakes, whether real or imaginary, and national pride are all evident when the armed conflict erupts and is always expressed through rape.

An Iraqi women's organization in Iraq estimated that during the first four months of the beginning of 2003, more than 400 Iraqi women were raped and kidnapped. On the same level, the Iraqi Ministry of State for Women's Affairs indicated that more than half of the reported rape cases led to the killing of rape survivors by their families. For example,

in 2006 there were more than 150 female bodies in the forensic medicine morgue in Baghdad and most of them they were beheaded or have been amputated, or their bodies showed signs of severe torture during the first ten days of November of that year due to the change of regime in Iraq.

Although Security Council Resolution 1325 stressed the responsibility of all states to end impunity and hold accountable those responsible for crimes against humanity, war crimes and genocide, including those that girls and women are subjected to from sexual violence and other forms of violence such as rape and sexual abuse. It is also stressed the need to exclude these crimes from amnesty provisions and related legislation as much as possible.

3. Domestic violence

Domestic violence remains a big problem in Iraq. The Iraqi Family Health Survey (IFHS) found that one in 5 Iraqi women is exposed to physical domestic violence. A Ministry of Planning study released in 2012 found that at least 36 percent of married women had reported some form of psychological harm from their husbands, 23 percent were subjected to verbal abuse, 6 percent were physical violence, and 9 percent were sexual violence.

While the Iraqi constitution prohibits "all forms of violence and abuse in the family," the Kurdistan region of Iraq is the only one that has a law on domestic violence. The National Strategy to Combat Violence against Women in Iraq (2013-2017) and the National Strategy for the

Advancement of Women, adopted in 2014, as well as the National Strategy to Combat Gender-based Violence 2018-2030 call for the enactment of violence-specific legislation. Against women.

The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), which Iraq ratified in 1986, considers violence against women a form of discrimination based on gender. The United Nations Committee on the Elimination of All Forms of Discrimination Against Women called on states parties to pass legislation to combat violence against women.

Domestic violence is one of the types of verbal, physical or sexual abuse done by the strongest in the family against an individual or other individuals who represent the weakest group, resulting in physical, psychological or social harm. It is one of the most important and dangerous types of violence, and this type of violence has received attention and study because the family is the pillar of society, and the most important structure in it. Means of violence, whether physical, verbal or moral, and the perpetrator of violence is not necessarily one of the parents, but rather the strongest in the family.

In fact, the phenomenon of domestic violence, if we take it in terms of scientific and academic interest in it, we see it as a typical phenomenon of recent times, as interest in it did not appear until recently. As for sociology, scholars of this human field began to study domestic violence, especially in the West after 1970, as a result of war Vietnam and the devastating consequences associated with it on the individual

and family levels due to the practice of various methods of violence and killing within the American society, the effect of that, especially political killing and the resurgence of the feminist movement, which led to the social scientists directing their efforts to study this phenomenon in order to find out its causes, motives, interactions and effects A family and community as well. In spite of all that, the law had preceded this knowledge in raising this issue on the mantle of international conferences and conventions, even in principle.

Types of domestic violence and its causes

By referring to the text of Article 1 / III of the Law on Combating Domestic Violence No. 8 of 2011 issued in the Kurdistan Region of Iraq, as well as the definitions that we have mentioned regarding domestic violence, we can conclude that domestic violence is not of one type, but it can occur in one of the following forms:

1. Physical violence: It is all that may harm the body as a result of exposure to violence, regardless of the degree of damage, and under it all forms of beating and harm that occurs directly on the body and comes at the top of this violence is murder, as it is the most severe and oldest type of violence.

2. Sexual violence: If murder is considered one of the worst and most severe types of physical violence, then it is neither uglier nor more terrible than rape, then with murder the victim's life ends after he suffers pain and suffering for a limited period. As for rape, the victim suffers from psychological pain, and emotional disturbances as long as

he is destined to live. Rape is when a male family member has sex with a female from the same family without her consent.

However, it should be noted that sexual violence is not only represented by rape, but all sexual practices fall under this concept of sodomy, for example, indecent assault, or otherwise, and in this last case, violence may be committed by the male against the female, or vice versa as well.

3. Psychological violence: It is embodied by all the psychological pressures that are exercised against the violence in order to force him to do or abstain from an act. Among its forms is verbal abuse, which is everything that hurts the victim's feelings such as slanderous or any words that carry offense, or describing the victim with miserable qualities of what he feels. This kind of violence is practiced against males and for social considerations that distinguish our societies from others, and this type of violence is the last shot used by parents when they are unable to refine the behavior of the victim son.

As for the reasons behind domestic violence, in reality there is no specific and clear cause that drives violence. Rather, many reasons and motives play in the excitement and emergence of this phenomenon, among them the social reasons are the customs and traditions that a society has become accustomed to and which require the man - according to these requirements Traditions - a measure of manhood so that he does not beg to lead his family without violence and force, because they are the criterion by which one can know the extent of manhood that man is characterized by, otherwise he is fallen from the

number of men. This type of motivation is directly proportional to the culture carried by society And especially the family culture, the more the society has a high degree of culture and awareness, the more the role of these motives will diminish until it is absent in high-end societies, and on the contrary, in societies with limited culture, as the degree of the influence of these motives varies according to the degree of degradation of the societies' culture. Pointing out that some members of these societies may not believe in these customs and traditions, but they follow them out of social pressure.

Among these reasons are personal or subjective, which were formed in the person's soul as a result of external circumstances such as neglect, abuse, violence - to which a person was exposed since his childhood - to other conditions that accompany the person and that led to the accumulation of various psychological impulses, which resulted in a decade A psychological state that ultimately led to compensation for the aforementioned circumstances by resorting to violence within the family. Recent studies have shown that a child who is subjected to violence during his childhood is more inclined to use violence than that child who was not subjected to violence during his childhood. Economically also, in the context of the family, the father, for example, does not intend to obtain economic benefits from his use of violence against his family. Rather, this is a discharge of disappointment and poverty, whose effects are violently reflected by the father towards the family.

Domestic violence, although it is not confined to the woman's domain alone, but most of its cases are the victim. The prevalence of domestic violence against her reflects several things, including the absence of social policies and legislations that address violence and limit its occurrence, and the inability of victims to access control agencies to file complaints for fear of scandal And divorce. Women's dependence on men, financially and morally, remains, to a large extent, preventing them from seeking protection from official agencies. Among the reasons for the prevalence of domestic violence against women is also the lack of a sufficient number of family counseling centers that provide assistance to women who are victims of violence, or the lack of education about the work that exists from them and the cultivation of confidence between the person exposed to violence and these centers, and the Sharia courts' lack of female members in the judiciary (as case researchers And female lawyers) to help women deal with issues of violence they face at home. The issue of the prevailing culture, customs, traditions and the blatant differences between the sexes that marginalize the role of women, the patriarchy of society, and its overwhelming masculinity remain among the main reasons that create a fertile environment that helps spread domestic violence against women.

Types of domestic violence

Domestic violence crimes are many and varied, but they all fall under the three types that we have previously explained, and by referring to the text of Article Two of the Anti-Domestic Violence Law in the

Kurdistan Region, it becomes clear that the legislator has elaborated on mentioning very many sects of these crimes, as this article stipulates that First: It is prohibited for any person related to a family relationship to commit family violence, including physical, sexual and psychological violence in the context of the family.

Coercion in marriage.

Marriage is the legitimate basis for the establishment of the family, for the family, which is the first nucleus of society, is created through marriage, and therefore marriage is in the law one of the basic freedoms that every citizen should enjoy. It must put in place any obstacles for it and it must be enjoyed by all citizens without there being the slightest obstacles derived from the color or language of individuals, and as the law guarantees freedom of marriage, it must guarantee individuals the freedom not to marry, so it is not permissible to force to marry.

Ensuring that is not limited to the invalidity of this kind of marriage, but also to the imposition of criminal protection by making the person who caused this contract to commit a crime punishable by law and whoever committed it.

The fact that this crime is organized in an accurate and detailed manner in Article (6) of the Iraqi Personal Status Law amended in the Kurdistan Region - Iraq according to the following:

A) None of the relatives or gentiles has the right to force any person, male or female, to marry without his consent, and the forced marriage contract is considered void if not consummated and if consummation

is made, it is considered suspended, and neither of the relatives or non-men who are eligible for marriage According to the provisions of this law on marriage (. Paragraph 2 of this article also came with a more severe punishment than the law against domestic violence, saying: -)) Anyone who violates the provisions of Paragraph 1 of this Article shall be punished with imprisonment for a period of no less than two years and not exceeding five years if he is close to The first degree, but if the violator is other than these, the penalty shall be imprisonment for a period of no less than three years or imprisonment for a period not exceeding ten years ((In general, coercion, by which we mean the threat, is dealt with in Articles 430-432 of the Iraqi Penal Code.

2. Early Marriage

Marriage is a necessity of life, through which the offspring is preserved and the human race continues and life continues, and it is also a way to strengthen the bonds of love and cooperation through intermarriage or descent, thus widening the circle of relatives. The other one says to the other: my husband and your husband, my daughter married your daughter and your husband my daughter or my husband your sister your husband is my sister, or my son's husband and I married your son, or my husband and I married your son, or something similar, this is the marriage of young people and the law also came to prevent it and make it a crime after it a kind of violence Note that this crime may also be included in the chapter on the crime of intimidation, which was dealt with by the legislator in the Penal Code, but the provision for it in the Anti-Violence Law came as a desire of the legislator among its

members in a special and explicit text, given the bad consequences it entails.

In the same direction, the legislator has also criminalized the marriage of a young child (male or female), because this kind of marriage will harm this young person in all respects, and since this young person does not have a complete will to express his desire for this marriage or not, the legislator made this marriage, In addition to being a crime, it is void if it was before admission and was suspended on leave if admission occurred.

3. Forced marriage / exchanging wives between tribes to solve problems

It is one of the bad and ugly habits, because of the evils that result from it, and this custom is that if a murder case occurred between two tribes or two families, the blood people did not accept reconciliation or blood money except on the condition that they marry a girl from the murderous family or tribe, and that is with the justification that the money goes and the bride remains. Instead, the married woman or the one who was chosen by the people of blood is obliged to marry the family of blood people, within the terms of reconciliation, whether she is satisfied or not, and despite that, she has no choice in choosing the husband from the family of the murdered, and she has no choice to annul the marriage no matter what the harsh circumstances happen to her. If the person who married her died from the family of the murdered man, one of his relatives inherited it, and this conditional woman is part

of the reconciliation or blood money agreed upon. In fact, this type of marriage is the most prominent cases of violence that is practiced against women and sometimes against men also in societies where the issue of revenge prevails. The tribal law. Therefore, the law came to criminalize this type of marriage, knowing that what was mentioned regarding forced marriage could be applied to it, which the legislator handled better in the Personal Status Law or the Penal Code as previously mentioned.

4. Forced divorce

It is another form of domestic violence, as the interests of some family members may sometimes intersect with other people with whom they are related by a relationship of marriage or marriage, so he, motivated by revenge or for any other reason, puts pressure on those involved in order to effect a divorce, and whether the pressure exerts on the male or female (i.e. the husband This crime may constitute another crime at the same time, as is the case with the threat against the husband in order to divorce his wife, so we will be faced with two crimes: threat and forced divorce.

Stop associating with families

The Kurdish legislator considered severing the ties of kinship to be a kind of family violence, and we believe that this matter is a bold and new step by the legislator in this regard, as the law rarely interferes in the regulation of some social or individual matters from the penal aspect due to the difficulty of this intervention or organization as it is.

The case, for example, with regard to lying, for example, hypocrisy, or an attempt to provoke a grudge between two people. These matters are considered crimes from a social point of view only due to the difficulty of organizing them by the legislator for reasons related to the difficulty of proving, for example, or because of their wide spread among members of society, which may lead to the daily accountability of many about these matters. Courts in such cases, in addition to that, the reason may be that the perpetrator of these acts may not carry a specific criminal danger that necessitates punishing and reforming him, but rather that the social punishment represented by the reaction of society towards the perpetrator may be sufficient for reform. Therefore all the legislator is reluctant to intervene to remedy such things. Cases are punitive, although they may be forbidden from a religious point of view.

The severing of the ties of kinship is one of these cases, but the legislator took this step after this act, a crime of domestic violence that requires punishment for its perpetrator, and in that encouragement from the legislator to perpetuate the bonds of bonds and love between members of the same family, and at this point the law meets with Islamic Sharia that sin this act and its perpetrator But a difficulty arises in this regard and relates to the rarity of a person from the family filing a complaint against someone who severed the ties of kinship with him, knowing in advance that the punitive solution may complicate the problem by raising it on a wider scale than it was. On the other hand, some habits and characteristics may have a role in not The possibility

of initiating the criminal lawsuit against the severed ties of kinship in some cases, as the self-esteem of many of the members of the same family refuses to seek reconciliation with those who quarreled with them, so how to file a complaint for that? Uterine cutter.

6. The husband's calls his wife a prostitute

Well, the lawmaker did after these acts a crime of family violence. In addition to being actions that are dirty with human dignity, they destroy the family by spreading immorality in it, thus creating a corrupt family far from sound foundations and good generosity. But it is noted that this crime was organized by the Iraqi legislator in a way. Better in the Penal Code and the Law on Combating Prostitution, although in general without allocating it to the family only, the punishment contained in these two laws is more severe than in the Anti-Domestic Violence Law as it ranges from imprisonment according to Article 380 of the Penal Code, as well as imprisonment for a period not exceeding seven years In accordance with Article 3 of the Law on Combating Prostitution in force.

7. Female circumcision

The problem of female circumcision was and still is a very big issue among the legal and Sharia communities. We are not here to talk about the legality or illegality of this matter because it is not relevant here, but only we note that this issue is one of the public issues that has been raised for a long time. In it, the arena witnessed remarkable movements on the level of women's issues and their supporters, the issue of female

circumcision appeared as an issue that raised public opinion, and soon it moved from the file of women's cases to the judicial file in many countries of the world. Females are considered harmful acts to women. Supporters of this principle claimed that circumcision harms the physical and psychological health of women and cited the opinions of many medical men about it.

It seems that the Kurdish lawmaker has joined the supporters of this principle and made female circumcision a crime of violence, but within the family only, and thus this act is a crime of domestic violence only. We believe that the method of the legislator's treatment of this matter was not accurate, so if female circumcision was a crime according to this law, then it is Within the scope of the family only, this means the act is still permissible outside the family, because there is no explicit provision in the penal code criminalizing this act, so in this case it is easy to circumvent the provisions of this text in the law against domestic violence and performing circumcision outside the family. But on the other hand. If we looked at Article 412/1 of the Penal Code, we would find that it can be used to treat all cases of circumcision, whether within the family or outside it. This article dealt with the issue of permanent disability as a crime and punished it more severely than it is in the law against domestic violence, with imprisonment for a period that may reach 15 years from that, circumcision can be considered a permanent disability, and therefore Article 412 above applies to it, whether the perpetrator is from within the family or outside it, because the text is stated absolutely.

8. Forcing family members to leave their job or work against their will.

Another form of domestic violence in which one person is forced by another within the same family to leave his job or work against his will. The most people who are exposed to this type of violence in our society are females in general due to the economic dependence of women on men in a large percentage in society and the possibility of his domination. From this point of view, she has to, accordingly, as well as the masculinity of society. While it is noticed that the issue of forcing women to work appears most in villages where they are used to work inside and outside the home, either bullying or a desire to achieve a specific economic interest.

9. Forcing children to work, beg and drop out of school.

The phenomenon of violence against children is one of the most prominent global problems that society is hardly devoid of, whether it is described as progress or reaction. It is a problem that is constantly increasing and steadily, so controlling it at times seemed to be very difficult due to the specificity of the issue, although most countries adopt compulsory education, especially at the primary stage. However, many cases of school dropout are still recorded in all countries and societies, including ours as well, and dropout rates vary according to several factors and circumstances, and the vast majority of school dropouts tend to.

. Suicide as a result of domestic violence

It seems that the legislator wants from his reference to this case to question the person who causes the suicide of others, which is exactly what the legislator intended by amending Article 408 of the Penal Code and his questioning of the perpetrator of suicide. However, the difference here lies in the fact that the accountability is limited to the family, that is, the cause of suicide and behind which a person stands Family, and thus this cause of acts of domestic violence.

But it is noticed that the wording of the text is flawed, because the phrase implies that suicide is the one that constitutes domestic violence !! As evidenced by the fact that the first line of Article Two of the Anti-Violence Law was drafted as follows (It is prohibited for any person associated with a family relationship to commit domestic violence ... The following actions are considered, for example, domestic violence: 10. Suicide ...) The legislator was successful in drafting these terms and was free to make the wording of Paragraph (10) as follows (causing suicide). It would be preferable if the legislator made suicide an aggravating circumstance for the case of domestic violence, protection would be broader and better. On the other hand, it is noticed that the text on this crime is useless in this. The law compared to the text of Article 408 of the Penal Code amending in terms of punishment. This is more strongly stated in the last article of it in the law against domestic violence. On the other hand, violence that leads to suicide can be considered a crime punishable in accordance with the provisions of Article 410 of the Penal Code and it is in the category of felonies The largest sentence is that it is sentenced to 15 years in prison.

11. Abortion due to domestic violence

Abortion is the case of the death of the fetus inside the mother's womb or its abortion before the date of its natural birth. In this act the legislator considered the abortion that occurs to a pregnant woman due to domestic violence - whether it is psychological, physical or sexual violence - as a form of domestic violence. In fact, as is the case with the paragraph. The previous one came in the legislator's treatment of this issue deficient and imprecise in terms of organization and wording. The phrase implies that abortion is the one that has family violence, while what is meant is abortion is more violent in the sense that there is violence in any of its forms and it results in abortion and this is the main purpose of the text, according to what we believe, so the paragraph needs There is also an amendment in this regard, and it is preferable if the legislator makes the case of abortion that occurs as a result of violence either an aggravating circumstance for the crime of the family, as in the previous paragraph, or holding the perpetrator accountable for two crimes (violence and abortion).

12. Beating family members and children under any pretext

In fact, this text is considered an unjustified increase, especially since the Kurdish legislator has made an amendment to the penal code, according to which it is no longer possible to use beating even for disciplinary purposes, which means that beating in any form would constitute a crime in the eyes of the law. Therefore, this paragraph is

an echo of this amendment, but Specifically, as the beating in such a case is a form of domestic violence. On the other hand, it is already noted that the wording of the text is legally and linguistically defective, so from the legal point of view, the word (and children) is extra unnecessary because this group is also from the family members, so it is not necessary. His inclusion of the word (by any pretext) is not correct because this order prohibits hitting in any form, even if it is for the purpose of legitimate defense !! ... And from the linguistic point of view, it is also noticed inaccuracy in the wording. The first is that the paragraph be according to the following wording (the use of beating against a family member Note that the crime of beating in general is more precisely regulated in Article 413 of the Penal Code.

4- Human trafficking crime:

Human trafficking is defined in international law as (“trafficking in persons” to recruit, transport, transfer, harbor or receive people by means of threat or use of force or other forms of coercion, kidnapping, fraud, deception, abuse of power, exploitation of a state of vulnerability, or by giving or Receiving sums of money or benefits to obtain the consent of a person who has control over another person for the purpose of exploitation. Exploitation includes, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or service, slavery or practices similar to slavery, servitude or the removal of organs) .

The Iraqi legislator defined the crime of human trafficking in Article 1 of Law No. (28) of 2012 that (human trafficking means for the purposes of this law to recruit, transport, harbor or receive people by means of threat or use of force or other forms of coercion, kidnapping, deception or exploitation. Power or by giving or receiving sums of money or benefits to obtain the consent of a person who has authority or jurisdiction over another person with the aim of selling them or exploiting them in acts of prostitution, sexual exploitation, forced labor, slavery, begging, trading in their human organs, or for the purposes of medical experiments).

The Iraqi legislator raised the word (transfer) that was mentioned in the international definition from the enumeration of the acts that make up the crime, and only acts (conscriptio, transportation, accommodation and reception). In the field of methods of subjugating or coercing victims, it also raised the means (exploitation of the state of vulnerability) that was mentioned in the international text despite its importance in dealing with the situation of persons who find themselves under control resulting from traditional tribal customs and practices similar to slavery.

This indicates that the Iraqi text is narrower in scope than the international text, as the Iraqi legislature has lifted cases of exploitation, enslavement and slavery-like practices, and replaced the term removal of human organs by trading in their human organs or for the purposes of medical experiments. That is, if a person removes his human organs,

and does not refer to trafficking, he is not considered a perpetrator of the crime.

The crime of human trafficking has increased in Iraq due to successive conflicts, and the roots of the crime extend to years of international economic sanctions since 1990-2003, which led to the weakness of state institutions and the destruction of infrastructure, thus women were exposed to exploitation in the field of prostitution and trafficking in them, and Iraq is one of the (worst case) Among the countries of the world, because young girls are exposed to the most horrific types of exploitation under threat, forged documents and the withdrawal of documents from the victim.

According to the report of the Organization for Women's Freedom in Iraq, sex trafficking and sexual exploitation have increased since the beginning of the 2003 war, as 15% of Iraqi women lost their husbands as a result of the war and searched for temporary marriages or sex work in search of protection or financial support, and more than four thousand have disappeared. Five Iraqi women are under the age of 18, since the occupation of Iraq in 2003.

It is worth noting in this regard that the Iraqi state did not enact any law to limit rape and sexual abuse in times of armed conflict, and the Iraqi Penal Code No. 111 of 1969 remained in effect for these crimes until 2012 when the law on human trafficking was enacted, but the aforementioned law came Poor compared to international law, and Security Council Resolution 1325 was not activated, which means that

it did not take any measures to reduce rape and sexual and physical abuse in times of armed conflict as stipulated in the resolution. However, the only advantage that the Iraqi state worked by was that it excluded the perpetrators of rape and human trafficking from the provisions of the general amnesty in the amnesty laws that were issued during the years (2008) and (2016). However, the general amnesty law of 2003 issued by the previous regime did not exclude crimes Rape and human trafficking are among the provisions of this law, which indicates that Iraq has not complied with the provisions of the UN Security Council Resolution in 2003 regarding the exclusion of these crimes from the provisions of the general amnesty.

Second Branch / Displacement:

Security deteriorated dramatically in Iraq in 2003 due to the conflict in Iraq, as it led to dangerous effects on civilians, including sectarian cleansing, displacement, deportation, and forced transfer by the United States of America and its allies, which could be considered a crime of genocide, and it is noted that genocide behavior It is not limited to the use of American forces of weapons to practice the crime of murder, but the destruction practiced by these forces in all aspects of the life of society led to a great emigration. Displacement is of two types: internal displacement and external (refugee) displacement.

First / Displaced people within the state: They are defined as people who leave their usual place of residence as a result of natural or

humanitarian disasters and live safely in the lands of their state until the reasons that led to their displacement disappear.

In a human rights report for the United Nations Assistance Mission for Iraq, the forced displacement increased after the events of 2006, especially after the United States Forces of America conducted war operations inside residential neighborhoods, which prompted Iraqi families to flee and forcibly displace to other places that may seem safer in their belief.

Reference must be made here to the third paragraph of Article (49) of the Geneva Convention of 1949, which stipulates that the occupying power may undertake a complete or partial evacuation of any specific area, if that requires the safety of the population, and the eviction status mentioned in the aforementioned article differs from the case of compulsory deportation. That the occupation forces carried out in residential neighborhoods with their horrific methods, and that the difference is evident through the eviction is in the interest of the occupied population while the deportation is in the interest of the occupation forces, and this represents a violation of the rights of the civilian population in the Geneva Conventions of 1949.

A field study showed the displacement of Iraqi women due to the occupation. The percentage of displaced women was estimated at 55% of the total number of displaced persons since 2003 due to violence, fear or searching for a source of livelihood. The rate of displacement was estimated at 22% as a result of insecurity, 17% as a result of written

or verbal threats, and 7% As a result of the death of a family member and 3% because they were targeted.

Second / Refugees outside Iraq:

They are people who left their country of origin due to a well-founded fear of persecution for reasons related to sex, race, religion, social affiliation, or political opinion.

And the United Nations High Commissioner for Refugees announced at the beginning of 2003 that there were more than 30,000 Iraqis in Syria, and in Jordan more than 250,000, and during the second Gulf War of 1991, Jordan was the only country that accepted hosting the Iraqis, and it is clear that the number of refugees in Jordan did not decrease. Since that time about 130 thousand Iraqis, and in a study presented by the Danish Refugee Council and the United Nations High Commissioner for Refugees, the percentage of asylum seekers who came to Lebanon before the year 2003 was equivalent to 30%. The government of the former regime committed massacres and repression against the southern regions of Iraq. Fleeing from Iraq to Syria This was the first period of displacement in 2001-2002, while the second wave of displacement was represented by the displacement that occurred after 2003 following the occupation of Iraq by the United States forces.

International humanitarian law defined in Article (44) of the Fourth Geneva Convention and Article (73) of Additional Protocol I of

1977 the treatment of refugees in the event of occupation and armed conflict, which obliges the occupying power to provide protection for refugees.

As for Security Council Resolution 1325, it stressed the need to protect women's rights during armed conflicts, and take into account their special needs during repatriation, reintegration and post-conflict reconstruction. Iraq to their homelands, and families were forced to return to their residential areas inside Iraq in the western regions that were under the control of ISIS.

The second topic / women's rights in the Iraqi national laws

The Iraqi constitution provides for a set of public rights and freedoms for both men and women without discrimination, in addition to their enjoyment of civil, political, economic, social and cultural rights. However, it is known that the constitution draws the general lines of the state and leaves the details of the parts to the laws approved by the legislative authority that are implemented and become effective from the date of their publication in the official gazette or the legislative authority may specify a specific time for their implementation, but Iraqi law often violates women's rights and distinguishes between them And between men in several areas of Iraqi laws, and that discrimination was clear, whether in the Iraqi Penal Code of 111 of 1969, or in the Personal Status Law No. 108 of 1959, so we will explain that violation in two demands, as we will explain in the first requirement the violation of

women's rights in The Iraqi constitution, and its rights in Iraqi legislation in the second requirement:

The first requirement: women's rights in the Iraqi constitution.

The constitution is the supreme and supreme law in the country and from it Iraqi laws derive their legitimacy in Iraq, and the Iraqi constitution has stipulated a set of rules that secure women's rights, so those rights are represented: civil, political, economic, social and cultural rights, which we will address all because they are interrelated rights. One right cannot be separated from another because Each of them is complementary to the other, in the order of what was stipulated in the International Covenants of 1966 related to civil and political rights and economic, social and cultural rights, so we will deal with these rights in two sections, which we will explain in the first section civil and political rights and in the second section economic, social and cultural rights according to the following:

First Branch / Civil and Political Rights:

The provisions of the International Covenant on Civil and Political Rights of 1966 stipulated stable and equal rights for men and women in accordance with the principles of the United Nations, so we will address these two rights in the Iraqi constitution respectively, and their conformity with the provisions of Security Council Resolution 1325.

First / civil rights

Civil rights are defined as rights that affirm the individual and come from the idea of natural rights. They are defined as pertaining to ownership and contracting. It can also be used as a synonym for personal freedom, freedom of thought and belief, freedom of assembly and freedom of expression.

Article (14) of the Iraqi constitution in force indicated that (Iraqis are equal before the law without discrimination based on gender, race, nationality, origin, color, religion, sect, belief, opinion, economic or social status).

Which indicates the equality of men and women in the Iraqi constitution and the non-discrimination between them, as stated in Article 14.

Article (18) of the Iraqi constitution of 2005 stipulates: First - (Iraqi nationality is a right for every Iraqi and is the basis of his citizenship. Second - An Iraqi is anyone born to an Iraqi father or an Iraqi mother).

However, this article is not recognized in the Iraqi civil status departments and passports directorates. Civil status identity cards and passports are not issued to children except in the presence of the father and his official documents.

This indicates the failure to apply the above constitutional provisions and the violation of women's civil rights in the Iraqi constitution, and the failure to implement Security Council Resolution No. 1325, which indicated the necessity of equality for men and women and non-discrimination between them. However, the discrimination is

clear and the constitutional texts are not applied, and the aforementioned Security Council resolution is not implemented. .

Second / political rights

Iraqi women comprise 54-60% of the people of Iraq, but the Interim Governing Council, which was established in 2003, appointed only three women out of 25 members, and no women were appointed to the interim constitution-making committee or to the Presidency Council, which consists of nine members. A temporary ministry was formed that included one woman out of 25 members in 2003, after which it took over the Ministry of Localities and Public Works, and the Coalition Provisional Authority did not place any woman in the position of governor out of a total of 18 governorates, which means that the goal of the coalition that was announced in 2003 is to protect women's rights Iraqiya and its support did not turn into direct implementation programs.

The first negativity in the constitution-writing process started since the formation of the constitution-writing committee from members of the National Assembly regardless of competence or legal and constitutional competence, in addition to the fact that the selection was based on sectarianism, on the basis of quotas and the degree of sectarian and partisan loyalty to the individual nominated for this committee, in addition to The nomination of women from a deliberately declining type of political parties.

The 2005 constitution of Iraq indicated in the fourth paragraph of Article (49) to women's political rights, which include the right to participate in public affairs such as voting, nomination and election, in addition to the percentage of women's participation that is not less than the members of Parliament. The Iraqi constitution included women, the elderly and children in its preamble, which indicates that women are considered among the vulnerable groups in the Iraqi constitution.

Security Council Resolution 1325 urged an increase in the representation of women at all levels of decision-making in national, regional and international institutions and mechanisms. In addition to appointing more women as representatives and special envoys to carry out good offices in the name of the Security Council, in addition to the need to increase the role and contribution of women in UN field operations, especially among military observers, civilian police, and human rights and humanitarian aid workers.

Although a quota was given to Iraqi women in the parliamentary elections, it seemed to be a positive discrimination guaranteed by the constitution, which is the quota. However, this quota, in fact, harmed Iraqi women, and the Arab quota is intended (a proportional quota). The election law and its transfer to the open list ensured that women's membership would not be Parliament is less than a quarter, and without this legal obligation, the percentage of women in Parliament could not be more than 2%, if not less.

Security Council Resolution 1325 established mechanisms to ensure fair proportional representation and full participation of women in all state authorities and the legislative, judicial and executive decision-making center at the national and local levels. However, this was not implemented in the manner urged by the resolution because proportional and fair representation is 50% and not 25%. Because women can not participate in all state authorities and decision-making centers, except for the fair percentage indicated by the aforementioned decision.

Section Two / Economic, Social and Cultural Rights:

Economic, social and cultural rights are among the rights necessary for human life in general and women in particular, which are essential to live a free and dignified life, but these rights related to women are often violated, so we will address these rights successively and explain the constitutional texts that referred to women's rights and the extent to which Security Council Resolution 1325 is implemented For Iraq.

First - economic rights:

The economic rights are represented by the right to work, decent living, food, clothing, and the basic needs of a person, whether a man or a woman.

The 2005 constitution referred to the right of women to work in Article 22 of the Iraqi constitution (Work is an established right for all Iraqis in a way that guarantees them a decent life).

Iraqi income tax laws grant additional discounts to married men, under the pretext that he is the head of the family, with the exception of divorced and widowed women. Whereas the unified labor law offers women an advantage, which is to obtain maternity and breastfeeding leave during work periods, and women are required to work in the evening, work overtime when they are pregnant, and assign dangerous tasks to them, and it is believed that employers discriminate against women or do not hire female employees. Because of the woman's responsibilities to take care of her children and family.

The human security of women on the economic side has been subjected to serious violations. Women do not enjoy any kind of guarantees in that field such as those working in the public sector. The unemployment of women from the age of 15 years and over (19.6%), while men (14,3) In general, women form the strength of industrial activity (18%) only. The crisis of violence in Iraqi society has led families to isolate women in order to protect them, and to the expansion of job opportunities of a security nature that are not often shared by women. Families refer to a woman's work with an inferior view on the basis of her physical make-up that makes her (shame) and a weak being that the man must protect.

Article (25) states the following: The state guarantees the reform of the Iraqi economy in accordance with modern economic principles, in a manner that ensures the full investment of its resources, diversification of its sources, and the encouragement and development of the private sector.

It is clear from the foregoing that the Iraqi constitution has recognized the equality of women and men and ensured the reform of the Iraqi economy, but the provisions of the constitution have not been applied on the ground. Women in the field of work are violating economic rights because of their gender, and the state has not reformed the economy. Industry is disrupted and most of Iraq's products are imported from neighboring countries. This negatively affects women and their work.

This contradicts Security Council Resolution 1325, which urged the necessity of stabilizing the economic situation of women, providing job opportunities for women, and cooperating with the concerned authorities to grant them easy loans in order to start implementing small projects and help them find job opportunities.

Second / Social Rights:

Social rights mean family rights, health, housing rights and others.

The Iraqi constitution referred to the right to family care in Article 30 / First, which states (The state guarantees for the individual and the family - especially the child and woman - social and health security,

and the basic requirements for living a free and decent life, providing them with adequate income and adequate housing).

Iraq has guaranteed the provision of social security for widowed and divorced women at an amount of (100,000) thousand Iraqi dinars per month, and everyone knows that this amount does not meet the requirements of a decent living because it is very cheap and it was the first for the legislator to take care of the social status of women and increase the amount to (500,000) thousand dinars, but Iraq did not provide the basic necessities, and the government did not provide housing, as many families are homeless, especially during the conflicts in the terrorist organization ISIS, in which Iraqi families were displaced and some of them were set up camps that lack all means of a decent life.

As for Article (31) first, it indicated that (every Iraqi has the right to health care, and the state cares for public health, and guarantees means of prevention and treatment by establishing various types of hospitals and health institutions).

But that care was not achieved in Iraq, and hospitals still lacked the means for public health and health development, and many Iraqis, whether men or women, go outside the country for treatment. Despite the Security Council Resolution 1325 affirming the need to provide urgent health services to women in the camps to receive the victims of violence and the survivors, to provide them with services. However,

this did not in fact happen and the Security Council resolution was often lost on paper.

Third / cultural rights

Cultural rights refer to the right to education, publication of publications, research and other matters related to culture. The identity of women is closely related to the culture in which they live.

Surveys revealed in the year 2000 that the enrollment rate of six-year-old girls in primary education was (88.6%) and in academic and secondary education (31%). In 2009, the percentage of female students in primary studies in Iraqi universities reached (46%) of the total number of students. As for postgraduate studies, it was (41%). As for illiteracy in Iraq, not every one in five Iraqis has the ability to read and write between the ages of (10-49) years, and the literacy rate varies greatly according to age group, gender, and countryside location. Or urbanization among women (24%), which is more than twice the rate of illiteracy among men (11%).

The Iraqi constitution indicated in Article 34 / First that education is a fundamental factor for the advancement of society and a right guaranteed by the state. Education is compulsory in the primary stage, and the state guarantees the fight against illiteracy.

The third paragraph of the same article mentioned above stipulates that (the state encourages scientific research for peaceful purposes in

the service of humanity, and fosters excellence, creativity, innovation and various aspects of ingenuity).

The national plan for Security Council Resolution 1325 indicated the formation of committees to review school curricula in schools and universities and pressure towards including the concept of gender.

We note from the foregoing the violation of women's rights in a number of Iraqi laws and the non-application of those laws to the Iraqi constitution in that education is compulsory, that is compulsory, meaning that the state forces individuals to teach, but what is in place if the student leaves education, the education directorates disregard this Compulsion and does not impose any force or coercion on individuals who abstain from enrolling in education, and the state has not effectively combated illiteracy, and the school curricula have not been properly reviewed. On the contrary, many of the current experiences have confirmed the difficulty of these curricula and their inadequacy for the ages of students.

The second demand / women's rights in national laws.

The internal law of the state applies to all those who reside in its lands, whether they are men or women. Internal law must not distinguish between individuals, whether male or female, but that discrimination began to appear in those laws, whether in the Iraqi Penal Code No. 111 of 1969 in force and in the Status Law Personality, so we will show that discrimination in those laws as follows:

The first section / women's rights in the penal code.

First / Article (41) of the law: There is no crime if the act is committed in use of a right established according to the law, and it is considered an use of the right:

A husband disciplining his wife ... within the limits of what is prescribed by Sharia, law, or custom.

This article violates the woman's right to physical integrity, as it allows the man (husband) to hit his wife under the pretext of disciplining her, and this would cause psychological and physical harm to her, and what if the beating of the husband was unjustified, because of his abuse of that discipline not because of her lack of manners but because of a lack His politeness is because he wants to get rid of her in one way or another in order to forcefully oppress her for many reasons that may happen behind closed doors, so if the law permits him to do so, he has prepared a legitimate excuse for violating her right.

There is no crime if the act is the use of a right established according to the law and is considered an use of the right: a husband disciplines his wife within the limits of what is legally established, legally or

customarily, this article violates the woman's right to physical integrity and wastes her dignity, as it allows the husband to hit his wife (to discipline her) and may reach limits. This discipline is to an extreme degree of physical and psychological harm. If the custom prevailing in the area or clan of the husband or wife permits that, such as hitting a stick, belt, tree, or confinement in a dark room and other methods and means of so-called discipline according to the custom that grants the husband's trial in order to allow him to do so (with the aim of disciplining his wife)

The law in advance assumes that the wife alone deserves discipline as if she is always the wrongdoer, and if the wife has disciplined her husband, then she will be brought before the court and sentenced to the crime of harming her according to Articles (416-410), because the law did not give her, just like the man, the right to discipline her husband no matter what Bad character that deserves to be disciplined. This discriminatory discourse in the law contradicts the principle of equality before the law affirmed by Article 14 of the Constitution, as well as with Article (29) of the Constitution (that the family is the basis of society and the state must preserve its existence and its religious, moral and national values). Perhaps the most important thing is contained in Paragraph Four of the same article, which states (All forms of violence and abuse in the family, school and society are prohibited). Also, these texts are inconsistent with the general provisions contained in the Covenant on Civil and Political Rights Article (7) and the texts contained in the Convention against All Forms of Violence against

Women (CEDAW) that require imposing legal protection for women on an equal basis with men, and ensuring effective protection for them through Courts with jurisdiction as national laws after their ratification in 1970 and 1986.

As far as Security Council Resolution 1325 is concerned, the goals set for this resolution call for contributing to the reduction of violence against women and providing safe shelters for victims. The Iraqi government did not address this matter and did not enact any law limiting the practice of violence against women and Article 41 of Iraqi penal code being an insult to women.

Therefore, we recommend abolishing this paragraph of Article 41 of the Iraqi Penal Code.

Second: Article (377) of the Iraqi Penal Code No. 111 of 1969

1- (The adulterous wife and whoever committed adultery with her shall be imprisoned with her, and the perpetrator is presumed to know about the marriage, unless it is proven on his part that he was not able to know her.)

2- (The husband shall not be punished with the same penalty if he committed adultery in the marital home).

It is noticed from the above text that he distinguished between a man and a woman in the punishment, so the wife is punished with imprisonment if she commits adultery, and the husband is punished by

imprisonment if he committed adultery in the marital home only, but if he committed adultery outside the marital home, he is not punished. As for the woman, she is punished with imprisonment whether she committed adultery in the marital home or outside it. The distinction is clear between a man and a woman, that is, the legislator gives a license to the husband to practice adultery outside the marital home. This is a violation of the principle of equality in Article (14) of the Iraqi constitution and Article (2) of the constitution which stipulates in Paragraph (A / A) that no It is permissible to enact a law that contradicts the established provisions of Islam, in addition to the fact that the above article violates Article (26) of the Covenant on Civil and Political Rights, which states that all of us enjoy the same protections before the law and enjoy without discrimination an equal right to enjoy its protection.

We suggest that this article should be amended according to the directives of Security Council Resolution 1325 in Iraqi laws, and that both husband and wife be punished.

Third / Article 380: Every husband who incites his wife to adultery and she commits committing a crime based on this incitement shall be punished with imprisonment.

The foregoing text punishes the husband who incites his wife to adultery with imprisonment only despite the suffering, despair, and disgust of the crime of adultery, the ruin of her life and the end of her

life. Incitement, here the husband may beat and torture his wife if she does not hear his words, and if she resorted to the law, then he does not punish him, or he may claim that he is disciplining her based on the text of Article (41) that allows him this matter. Meaning, if the material element of this crime is not achieved by the occurrence of the act of adultery, then incitement alone does not constitute a crime. But if the wife committed adultery based on that incitement, and the husband lodged a complaint against her according to Article (377), and the wife was unable to prove the incitement, she would receive the punishment prescribed for the crime of adultery, and this prejudices her rights and is a violation of her dignity. This matter also constitutes a violation of Article (6) of CEDAW.

We recommend that this article be amended from the General Penal Code

Fourth / Article (409) of the Law: -

(Whoever surprises his wife or one of his relatives in the case of adultery or fornication in the same bed with her partner shall be punished with imprisonment for a period not exceeding three years, or he kills one of them or assaulted them or one of them for an assault that led to death or permanent disability).

The above article permits the husband to kill his wife if she is caught in the act of adultery, while if the wife surprises her husband while he is in the act of adultery, then it is not permissible for her to kill him. Years, it may be a year or less than a year, or the execution of the

penalty shall be suspended. The distinction is clear in this article between men and women. This article, in its aforementioned text, constitutes discrimination against the woman, as it is a mitigating legal excuse for a man who kills a woman out of shame, and it does not apply to the woman while she surprised her husband with whom he plucked the marital bed and killed them.

This is a serious violation, discrimination, and equality before the law, and this contradicts the provisions of Article (14) and (29 - Fourth) of the Constitution and Article (26) of the International Covenant on Civil and Political Rights.

Also, this article contradicts Article (407) which reduces the punishment for a woman who kills her newborn out of shame if she has become pregnant with it in incest, meaning that the law has reduced the punishment for the woman if she commits adultery, how can he return and reduce the punishment for those who kill her because of adultery?

The legislator is supposed to include the woman also with this mitigating excuse the mitigating excuse or the original cancellation of this article because it is not permissible for the person to be the judge and the executioner of the punishment, for this is the task of the judiciary.

Fifth / Article (398) of the Law:

The provisions go to the perpetrator's inclusion with a legal excuse that reduces the penalty if a valid marriage contract was concluded between the perpetrator of the act of rape. This article was amended by Law No. (91) of 1987 to make this marriage a mitigating excuse for the purpose of implementing the provisions of Articles (130) and (131) of the Penal Code. . Here, the victim is faced with another coercion in addition to the act of rape, which is forced marriage, and the perpetrator's impunity despite his committing a well-founded crime.

Sixth: Article (427) of the Law:

It states whether a valid marriage contract was concluded between the perpetrator of the crime of detaining and kidnapping the woman and the victim, stopping the initiation of the case, its investigation and other procedures, and if a judgment has been issued in the case, the execution of the judgment shall be suspended, which allows the perpetrator to escape punishment.

As for the Kurdistan region, the Kurdistan National Assembly issued Resolution 14 issued on 14/2003. The crime of murder for the purpose of washing shame is a normal crime, the perpetrator of which does not deserve to be granted any legal excuse that reduces punishment.

Seventh / Article (128) of the Law:

Which stipulates (legal excuses are either exempt from punishment or reduced to it ... and it is considered a mitigating excuse, committing the crime for honorable motives or based on a serious provocation by the victim unlawfully) and judicial applications have settled on the application of mitigating legal excuses in crimes of the so-called laundering Shame. Legislation, jurisprudence and the judiciary have joined forces in granting the perpetrator the power to implement his sentence himself against the victim, and the punishment imposed on him falls from death or life imprisonment to imprisonment for six months in many cases.

All this constitutes a violation of women's rights in the Iraqi Penal Code No. 111 of 1969 in the above-mentioned articles. The Security Council Resolution No. 1325 referred to coordination with the relevant committees in the House of Representatives to reconsider the texts and legislation unfair to the right of women, but the Iraqi legislation did not amend the House of Representatives or propose other laws in line with Resolution 1325.

Section Two / Women's Rights in Personal Status Law No. 188 of 1959.

The Iraqi Personal Status Law was enacted in 1959, and it deals with cases of marriage, divorce, guardianship, alimony and other such matters. It is noted that the aforementioned law violated women's rights in several paragraphs as follows: -

First / Polygamy: Article Three:

(P / 4) It is not permissible to marry more than one woman except with the permission of the judge, and to give permission the following two conditions must be fulfilled:

A- That the husband is sufficient to support more than one wife.

B - There is a legitimate interest.

(P / 5:) If unfairness among wives is feared, polygamy is not permissible, and the judge's discretion is left

(F / 6:) Whoever concludes a marriage contract with more than one, contrary to what is mentioned in paragraphs (4 and 5), shall be punished with imprisonment for a period not exceeding one year or with a fine not exceeding one hundred dinars or both.

(P / 7: (As an exception to the provisions of Paragraphs 4 and 5) of this Article, it is permissible to marry more than one woman if the intending to marry her is a widow.

Marriage is not a relationship between two angels in heaven, rather it is a bond between two people based on many other ties in the society in which they live, and linking them to the environment from which they are issued, and the simplest concepts of association and collective bonding require participation and participation in the right, accountability and responsibility in duty, complementarity in roles and burdens The right of the group is only based on defining the right of the individual in a form that he waives for the sake of everyone, and this principle in Islam is guaranteed in the family system.

And Islam did not dictate marriage to one woman only, but rather his virtue and urging it, and therefore it did not require polygamy, but rather hated that and warned against it, because Islamic law adopted the prevention of harm based on the jurisprudential rule (warding off evil takes precedence over bringing interests) and from this we know that polygamy is definitely prohibited when fear From the unfairness of pluralism, because God Almighty says (If you fear not to be fair, it is one) and he pointed out its difficulty while being careful to say the Almighty (and you will not be able to do justice to women even if you are careful).

Everyone knows the extent of the psychological and social suffering that a woman experiences in the event of her husband's marriage to a second woman, and a waste of her dignity and humanity and the preference for another woman over her. And not to allow polygamy except in urgent cases for which there is no solution, because God Almighty has preferred marriage to one over polygamy, as well as permitting a woman to seek divorce in the event of her husband's marriage and giving her all her legitimate rights.

Second / A- Article Twenty-Three: Alimony for the wife:

1 - The wife is obligated to spend on the husband from the time of the valid contract, even if she is residing in her family's house, unless the husband asks her to move to his home, and she refuses unjustly.

2- Her abstention is a right as long as the husband did not pay her the accelerated dowry or did not spend on her.

B- Article Twenty Five:

There is no maintenance for the wife in the following cases: 1- (If she leaves her husband's house without permission and without a legitimate reason.

2- If she is imprisoned for a crime or religion.

3- If she refuses to travel with her husband without a legitimate excuse.

Article 384 of the Iraqi Penal Code No. 111 of 1969 indicated: -

(Whoever is subjected to an enforceable court ruling to pay maintenance to his wife, one of his ascendants or descendants, or to any other person, or to pay a fee for nursery, nursing, or housing and refrains from paying with his ability to do so during the month following his notification of the implementation, shall be punished with imprisonment for a period not exceeding one year and a fine. Not exceeding one hundred dinars or either of these two penalties).

It is evident from the above texts that the husband is obligated to spend and in the event that he refuses to pay the alimony, he deliberately deprives the woman of the simplest means of subsistence, including clothing, food, and other necessary matters. If she is imprisoned for a crime or debt, is not the husband more deserving of standing next to his wife in times of distress and adversity, or if she refuses to travel with

her husband, these things do not justify depriving the wife of maintenance.

And that the punishment prescribed for the husband is not commensurate with the gravity of the act whereby the wife is deprived of her most basic legal rights, so the law specified the penalty to not exceed one year, meaning that the punishment may be stopped due to the suspension of execution, but the husband may go too far and deliberately oppress his wife and bemoan her, and in return he escapes from punishment.

Third / Arbitrary Divorce: Article (34):

Q (1): (Divorce is the lifting of the marriage at the pace of the husband or wife if it is appointed or authorized or by the judge. Divorce does not take place except in the form specified for it by Sharia).

Article 39: P (3) (If the husband divorces his wife, and the court finds that the husband is abusive in her divorce and that the wife has suffered harm as a result of that, the court shall, upon her request, award her divorced compensation in proportion to his financial condition and the degree of his abuse, as much as a total, provided that her expense does not exceed two years in addition to Her other fixed rights).

We note from the legal articles related to divorce that the husband may divorce his wife whenever he wants, and the wife is not permitted to divorce herself except with the permission of the court. The husband's material, but he did not take into account the wife's

psychological and social condition, and he also set the maximum value for compensation, that is, the possibility of increasing compensation.

That is, the husband has absolute freedom to divorce his wife, but the wife is not allowed to do that except with the permission of the court and after long procedures in Iraqi courts in which the woman exhausts all her energy and destroys her psyche.

We believe that it was the first for the Iraqi legislator to amend this article according to the guidelines of Security Council Resolution 1325, which urges equality between men and women in domestic legislation, meaning that a man may not divorce his wife except with the permission of the court in order not to abuse this right that the law granted him to divorce like a woman .

Fourth: Khula “divorce from one partner”:

Article Forty-Six: P (1) (Khula is to remove the registration of marriage with the wording of khul 'or whatever it means, and it takes place with an offer and acceptance before a judge, taking into account the provisions of Article 39 of this law)

It is said that the man took off his garment by taking it off, taking it off and removing it from him, and it is said that the man took off his wife, and the woman gave her husband a khula 'if she was redeemed from him.

The khula by joining removes the moral matrimony in reality, and it appears that each of the spouses is a dress for the other in the

meaning, so khula removes the moral dress, so separation of the spouses is likened to removing the dress and the relationship that each of them is the other's clothing.

And the legitimacy of khula was proven in the Holy Qur'an: (It is not permissible for you to take anything from what you have given them except for fear that they will not establish the limits of God.

Khula in Arab legislation is for the wife to redeem herself from marriage, that is, to give up her legitimate rights or give money to the husband in exchange for her divorce even if he does not agree to divorce, but the khula in Iraqi law implies that a woman is not allowed to divorce herself with money or with her legitimate rights except With the husband's consent to the divorce, and here we must stop the critic's position and say what is needed for the legalization of khula's so long as divorce is only valid with the consent of the husband. What is the role of a woman when she hates her husband and hates to live with him, for she is a living being like him.

This discrimination is inconsistent with Security Council Resolution 1325, which rejects discrimination and urges the change of legislation that violates women's rights.

Section Three / Civil Law:

The civil law specified the guardians of al-Saghir in Article 102 (the guardian of a young child is his father, then the guardian of his father, then his right-grandfather, then the guardian of the grandfather, then the court or the guardian who was installed by the court).

This article referred to the parents of al-Saghir, who are his father, then the guardian of his father and his grandfather, then his grandfather's guardian, then the court, and after him the guardian who is placed by the court, and the question here is what is the role of the mother in this article?

This question can be answered by the fact that the role of women here is abolished in Iraqi law, meaning that the law considered women as if they did not exist and abolished their existence completely.

This means that this article in the Iraqi civil law contradicts the provisions of Security Council Resolution 1325, which stipulated non-discrimination between men and women, and also urged the amendment of legislation in force that contradicts the provisions of Security Council Resolution 1325.

Fourth Branch: Draft Domestic Violence Law:

The draft law against domestic violence has been in front of the Iraqi parliament for many years. Several amendments have been made to it to reach its final form attached to this study.

This draft still needs many amendments to be in line with international standards in order to achieve non-impunity for the perpetrator of the crime and assault, whether against women or children, which is one of the phenomena prevalent in Iraqi society, unfortunately, and we include the most important observations as follows:

- The draft law prioritizes reconciliation over protection and redress for victims of violations. One of the aims of the draft law is “the pursuit of family reconciliation to protect the family and the safety of society,” as Article 19 of the draft law stipulates that the judge shall refer the parties to the complaint to the “Social Research Department” for reconciliation, and if this fails, the court shall take the necessary legal measures. It also stipulates that legal proceedings against the perpetrator shall cease in the event of reconciliation.

This approach does not guarantee adequate protection for victims of violence, or punishment for perpetrators, and does not guarantee adequate remedy. Domestic violence in Iraq is a private matter, especially given that Iraqi law considers that husbands have the right to discipline wives, and fathers have their children, with women usually subject to tremendous social and economic pressures pushing them to prioritize family cohesion, at the expense of protecting them from violence. Victims do not usually have the power to negotiate, and as a result they do not benefit from reconciliation procedures.

- Article 9 of the draft law stipulates that a victim of domestic violence may file a complaint with domestic violence investigation judges, the public prosecution, investigative judges, or the Domestic Violence Protection Department. But the law should also include the General Police as an additional authority, allowing survivors to complain in areas that do not have other necessary powers.

The bill should also include duties on the police, such as those stipulated in the Criminal Procedure Code, including requiring the police to register domestic violence complaints, filling in and submitting formal complaints reports, sending reports to investigative judges, and police interviewing parties and witnesses after notifying the investigative judge or prosecution, Or on the orders of the investigating judge.

- The draft law does not indicate the types of evidence that would be admissible in domestic violence cases. The United Nations Office on Drugs and Crime recommends that states prepare guidelines on admissible evidence in court in domestic violence cases. It may include medical / forensic evidence, victims' statements, photographic evidence, expert testimony, physical evidence such as torn clothing or damaged property, cell phone records, emergency call records, and other communications.

- The draft law provides for protection decisions, which are an important mechanism for dealing with domestic violence. The Special Rapporteur on violence against women noted that "the protection order that prohibits the perpetrator from contacting the victim and protects her home and family from the perpetrator is an important weapon in the group of weapons used to combat domestic violence." The Model Strategies and Practical Measures issued by the General Assembly call on states parties to "establish effective procedures that can be easily used to issue restraining or prevention orders to protect women and

other victims of violence and to ensure that victims are not held responsible for any breach of these orders.”

However, the lawmaker does not differentiate between short-term urgent protection decisions and long-term protection decisions, while it is important to issue protection decisions that grant victims "protection" of no more than 30 days from the suspected perpetrator, which is a renewable period.

Urgent short-term protection decisions are to address situations of existing danger, and they usually address them by separating the alleged perpetrator from the victim. Rather than placing the onus on victims to seek shelter and safety elsewhere, deportation of the suspected perpetrator for a limited period is appropriate. In other countries, these urgent and temporary protection decisions are issued by the competent authorities specified by law, and are issued in favor of one party (in the absence of the rest of the parties) based on the victim's testimony.

Longer-term protection decisions are usually issued by the courts after notifying the complainant of his rights, providing an opportunity for a full hearing and reviewing evidence. In some countries, these decisions expire after months, but it is recommended that they remain in effect for at least a year. Taking into account the reduction in the number of times a complainant / survivor of violence must appear in court, these [long-term] orders reduce the financial, emotional and psychological

burdens incurred by complainants / survivors of violence as well as the number of times they are forced to confront the perpetrator.

The current bill allows only investigative judges dealing with domestic violence to issue protection orders. Article 1 (6) of the amendment states that protection decisions are issued by family courts, and Article 16 (2) states that female complainants who have not applied for a protection decision [from the investigative judges in domestic violence cases] may request their request from the Family Court. Victims in crisis situations who seek to obtain urgent short-term decisions within 24 hours can face problems if their areas do not have investigative judges specializing in domestic violence, or are unable to contact family courts quickly. If the law provides for additional officials to issue urgent short-term protection decisions, such as other investigative judges, this would help victims who do not have immediate access to family courts in terms of obtaining urgent protection. The bill should also require the police to assist survivors in obtaining timely decisions from other competent authorities, while requiring the police to immediately assist in implementing these decisions. UN Women said it should "require [the law] to issue urgent protection orders with all expedition to support the goal of ensuring the victim's safety."

- Article 17 (5) of the draft law allows an exception to the prohibition of contact with the victim if it is “intended for family reconciliation”. This exception undermines the safety and independence of the victim. The perpetrator may seek reconciliation with the victim only to engage in violence upon meeting with her or during "reconciliation". Although

the article stipulates that the communication takes place by a decision of an investigating judge in domestic violence, and under the supervision of the Department of Domestic Violence Protection, it does not address the consent of the victim. As we indicated earlier in this memorandum, all references to family reconciliation in the draft law should be canceled.

- The bill should also address the stay of any children or visits, as part of the protection decision procedures. The United Nations warns that "in many countries, perpetrators of violent acts have used custody of children as a way to continue abuse and gain access to surviving victims." Several countries have authorized courts to assess child safety as part of the protection decision-making process. The UN Handbook recommends that legislation require "a presumption against granting child custody to the perpetrator; a presumption against a visit by the perpetrator without supervision; a requirement that the perpetrator must, before granting the visit with supervision, prove that 3 months have elapsed since the last act of violence committed, and that it has ceased He refuses to use any form of violence, and that he participates in the treatment program with regard to the perpetrators; visitation rights are not granted against the will of the child. "

- Article 8 of the draft law obliges the Ministry of Labor and Social Affairs to establish shelters - called safe centers - for survivors of domestic violence. This is very important given that the civil society organizations concerned with women's rights, which provide this shelter, have been subjected to attacks and threats by the perpetrators,

and are facing hostility from some government officials. The Human Rights Office of the United Nations Assistance Mission for Iraq noted in its August 2014 report that “there are currently few effectively functioning shelters where women can seek refuge and seek protection, and these women are often sent to women's prisons when they seek protection against violence. Captive. ”

In the concluding observations of the United Nations Committee Against Torture, issued in 2015, it called on Iraq to “provide better protection and adequate care for these victims [of gender-based violence], including enabling them to access safe homes and governmental and private shelters ...” as well as ensuring that civil society organizations Concerned with the protection of women and girls, in turn, shall be protected from all forms of harassment and violence, including "a law permitting the opening of shelters run by private parties." It is recommended that, at a minimum, the legislation should provide for: “one shelter or shelter for every 10,000 inhabitants, providing urgent and safe accommodation, qualified advice and assistance in finding a place for long-term residence, and it must also ensure that these shelters are able to accommodate and assist women and their children in urgent stay. In finding shelter for longer periods, the authorities should also ensure that the ministry cooperates with local civil society organizations concerned with women's rights in managing these shelters, and that officials do not harass or attack the open civil society shelters.

- Article 16 (1) contains variations in that it states that survivors of domestic violence must resort to investigative judges specialized in domestic violence to obtain protection decisions, or to enter a shelter, and that the complainant can appeal these decisions. The bill should not allow the complainant to challenge admission of a domestic violence victim to a safe center. This provision denies the victims their independence and provides an opportunity for the perpetrator to persistently harass her, which may undermine her safety and her pursuit of redress. First, this article must be amended to separate the right to shelter from the protection decision request. Second, it may not be easy to reach an investigative judge specializing in domestic violence, and thus the law must provide for the ability of additional officials to bring victims into shelters.
- The draft law states that the Family Protection Department will “propose necessary and appropriate mechanisms to protect victims of domestic violence,” and that the Supreme Committee against Family Violence is required to agree to and adopt these proposals. We recommend that legislation defines the basic assistance that a victim can receive, and includes psychosocial, medical, legal and financial support.

The United Nations Committee on Economic, Social and Cultural Rights, which oversees the implementation of the International Covenant on Economic, Social and Cultural Rights, calls for states parties to "provide access to safe housing, remedies and reparation for

physical, mental and emotional harm to the victims of domestic violence, the majority of whom are female."

- Survivors of domestic violence incur significant financial costs, in the short and long term, related to suffering and pain, reduced employment and productivity opportunities, and spending on services. The UN Handbook calls for survivors to have access to financial assistance outside of protection orders.
- The bill also provides for other services, such as a 24-hour hotline through which survivors seek to obtain assistance and referrals to other service providers, as well as access to health care, including reproductive health services. It is also important here that the legislation states that "all services provided to survivors of violence should also provide support to their children."
- Article 2 of the draft law states that one of the aims of the law is to prevent and limit the spread of domestic violence. While the draft law stipulates that one of the tasks of the Department of Protection from Domestic Violence, and the tasks of the Supreme Committee against Domestic Violence, is to propose plans and programs for the protection, reduction and prevention of domestic violence, it does not stipulate what these prevention measures should include.

The CEDAW Committee stated that "traditional attitudes that regard women as subordinate to men or have a stereotypical role perpetuate common practices involving violence or coercion, such as violence and misbehavior in the family. Subsequently, the committee stated that

“Effective measures should be taken to overcome these attitudes and practices,” including education and the mass media to help eliminate prejudices that hinder women's equality.

It is important for violence against women legislation to give priority to prevention and to introduce a set of measures such as public education programs and awareness raising through the media, and to promote materials and content on violence against women and women's human rights in educational curricula.

Conclusion: conclusions and recommendations

After we finished discussing the topic (legislative gaps in the implementation of UN Security Council Resolution 1325 on women, security and peace), which we tried as much as possible to know the rights of women in armed conflicts in Iraq and their impact on women's rights under Resolution 1325, and at the end of the research we reached a set of results and recommendations that ensure the implementation of the provisions of UNSCR 1325, which are as follows:

First / results.

The most important results are summarized as follows:

- 1- Iraq's passing through three international armed conflicts and three non-international armed conflicts, which have had grave negative impacts on women's rights, and the failure to implement Security Council Resolution 1325 in Iraq.
- 2- Iraqi law did not enact any legislation limiting rape and sexual abuse during armed conflicts and Penal Code No. 111 of 1969 remained in effect for these crimes, and in 2012 a law on human trafficking was enacted, but it does not conform to international legislation.
- 3- The exacerbation of displacement and displacement during the armed conflicts in Iraq, and their negative impact on women, especially during the period of terrorist attacks by ISIS.
- 4- The Iraqi constitution stipulates political, civil, economic, social and cultural rights for women in a positive manner and is fair to women

except with regard to (the quota), as it was defined in the 2005 constitution as (25%), meaning that this percentage discriminates between men and women and it was the first in the constitutional legislature to set this percentage (50%) that is, equally without discrimination.

5- There are many legislative gaps in the Iraqi Penal Code, exemplified by the text of Article 41 of it that permits a man to beat his wife and oppress her for the sake of discipline, and he may commit arbitrariness that the law granted to him just because of his hatred or hatred of his wife.

6- The existence of a legislative gap in the Iraqi Penal Code in force with regard to Article (377), whereby the husband has permitted adultery outside the marital home and the wife is punished for adultery outside the marital home.

7- A legislative breach in Article (380) of the Penal Code, which does not punish the husband for inciting his wife to adultery and only punishes him if she commits adultery based on that incitement.

8- Discrimination exists in the applicable penal code in relation to Article 409, whereby this article allows a man to kill his wife or one of his female relatives in the case of her fornication and consider the crime as a misdemeanor that may stop the execution of the sentence, while a woman is not permitted to kill her husband if he is caught in adultery and is considered to have committed the crime of murder Willfuls.

9- A violation of women's rights in the Iraqi Personal Status Law No. 188 of 1959 related to polygamy.

10- Legislative breaches in the personal status law in force with regard to maintenance, where the legislator took into account the husband's financial condition and did not take into account the social, psychological and economic condition of the woman, and breaches regarding arbitrary divorce and khula, so a husband may divorce his wife without her knowledge in exchange for compensation if she asks for it, and the wife may not divorce herself except with consent The husband or the judge, and likewise, it is not permissible for a woman to divorce her husband in exchange for money except with the consent of the husband, unlike in the Arab countries in which the khula takes place after the wife has redeemed the money herself.

Second / Recommendations:

1- We recommend that the Iraqi government legislate a strict and effective law in dealing with cases of violence against women. It is important here to address all forms of discrimination against women by achieving principles of social justice and equal opportunities among all members of society by implementing comprehensive policies and creating an integrated system for cooperation between the government and civil society that works on Change the negative image of society towards women and gradually eliminate all obstacles that limit the participation of women in public life.

2- Amending all legal articles contained in all Iraqi laws and legislations in accordance with international standards and in line with international conventions for human rights, international humanitarian law and UN Resolution 1325, including, for example, but not limited to, what is stated in the legal articles mentioned on pages 30-36 From this study.

3- Developing laws that take into account gender differences and that take into account articles of Security Council Resolution 1325, including relying on a system of quotas for women in peace negotiations and transitional institutions.

4- Increasing women's participation in peacebuilding and decision-making through assuming high positions and their involvement in negotiations and resolution of conflicts.

5- Improving women's economic, social and cultural status by granting loans to women who support families and increasing the social welfare salary that is not commensurate with a decent living.

6- Compensation of women with adequate compensation for the damage they suffered during the period of armed conflicts.

7- We recommend that the Iraqi Council of Representatives review the legislation in force and amend it according to the requirements of Security Council Resolution 1325.

8- Conducting research and workshops on the legislative gaps of Security Council Resolution 1325 and searching for the reason for not implementing it.

9- Establishing a competent court to punish perpetrators of crimes against women during armed conflicts, in order to provide justice to women and deter violators of their rights.

10- Training women on their rights by including the women's rights curriculum.

11- The necessity to rid society of customs and traditions that deprive women of their legitimate and legal rights.

12- Forcing all rulers and ruled to implement the provisions of the Iraqi constitution of 2005 because it is fair for women, and amending the quota rate by 50% instead of 25% in that constitution.