
**Committee on the Elimination of
Discrimination against Women
Twelfth session**

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**Concluding comments of the Committee on the Elimination of
Discrimination against Women: Iraq**

Initial report

33. The Committee considered the initial report of Iraq (CEDAW/C/5/Add.66/Rev.1) at its 212th, 213th and 216th meetings, on 20 and 22 January (see CEDAW/C/SR.212, 213 and 216).

34. In introducing the report, the representative of Iraq pointed out that the political leadership in Iraq fully believed in the principle of equality between men and women even before acceding to the Convention, as reflected in the relevant legislation. She then gave a detailed explanation of the central role being played by the General Federation of Iraqi Women, the machinery for promoting women's rights and implementing the Convention. She said that the Federation had proposed draft laws ensuring equal rights for women, suggested amendments to existing laws, participated in deliberations on laws related to the status of women, and studied and given opinions on all draft laws proposed by the competent authorities. The Federation also operated family counselling centres on family and legal questions, thus becoming acquainted with women's problems on a continuous basis, and either gave advice directly or liaised with the competent authorities. Its services reached out also to rural women. Furthermore, the Federation had disseminated laws and regulations relating to women by the publication of a handbook.

35. The Federation had proposed the formation of a national committee for following up the implementation of the Convention, identifying legislation that ran counter to its provisions. It had also submitted a number of proposals for promulgating, abrogating or amending legal provisions to make them compatible with the Convention.

36. The representative stated that the main obstacles to the implementation of the Convention were the outcome of his torical circumstances that could not be overcome in a short period. They were the result of the economic, social and cultural backwardness of developing countries, the unjust world economic order, prevailing traditions and customs and society's vision of women. The most serious circumstance that hampered the implementation of the Convention was the economic blockade that had been imposed on Iraq since 1990, with its economic and social consequences and implications for health. Severe shortages of food and

medical supplies could lead to famine in the country; prices of basic food commodities had risen sharply. The child mortality and morbidity rate had increased between 1990 and 1992. All those factors would result in a regression in the country's economic and social life.

General observations

37. Members of the Committee commended the report for its adherence to the general guidelines regarding the form and content of reports and the way it had been presented to the Committee. They welcomed also the fact that the country had sent a representative to present it, despite the difficult situation in which Iraq found itself as a result of the long war and the recent conflict with all its negative consequences for the status of women. They noted that the Government was making efforts to address the issue of the status of women. While members welcomed the fact that the issue of reservations had been addressed in the report, they found the reservations a matter of considerable concern. In noting the reasons given for entering reservations, they observed that there was a contradiction between the reservations and the view that the Shariah also guaranteed women equality with men, and that gender equality was guaranteed by the Constitution. Concern was shown because those reservations were of a fundamental nature and touched on the heart of the Convention. If the Government adhered to the principle of gender equality, as enshrined in the Constitution, it would have to amend the laws that were still discriminatory against women. However, the Government indicated that it did not believe in legislative shocks, and yet any new law constituted a kind of legislative shock. Members stated that such shocks were necessary if laws were to be progressive.

38. When members asked how the issue of gender equality was dealt with in the case of laws that still encouraged gender inequality, the representative explained that all legislation was drafted on the basis of the Constitution. It had to be implemented accordingly, except when it was in contradiction with the Shariah.

39. Members of the Committee said that although the situation of women in Iraq was one of the most advanced in the region, and the Government had made great efforts to achieve gender equality, it would be desirable if it were to carry out that task with a stronger sense of commitment and to envisage reconsidering the issue of reservations with the goal of removing them, especially those concerning articles 2, 9 and 16 of the Convention. The representative stated that a high-level committee had been set up with the President's approval especially for reconsidering the issue of reservations. The entering of reservations had stemmed from the Government's interest in implementing the Convention faithfully, but the reservations were not meant to delay or hamper the advancement of women. Iraq had enacted many laws in favour of women and had dealt flexibly with the provisions of the Shariah in a way that was best suited to the goals of the Convention.

40. In noting that an impression had been given that the Government was more concerned with making women into good citizens than with trying to obtain for them equal rights and equal opportunities, members said that the conditions of women would not improve as long as old habits prevailed. Asked whether statutory provisions and customary laws were the same for all women, regardless of race and religious belief, the representative said that, except for the provisions of the Shariah, all others were generally applicable, irrespective of sex and belief.

41. Members asked whether Iraq had also entered a reservation to the International Covenant on Civil and Political Rights and its Optional Protocol or to the International Covenant on Economic, Social and Cultural Rights with regard to the rights of women.

Questions related to specific articles

Article 2

42. Members of the Committee praised the active and varied role played by the General Federation of Iraqi Women. Asked whether the Federation reflected only the Government's views, whether women were obliged to join and whether there were any other women's organizations and, if so, what their methods were to advance the status of women, the representative explained that the Federation was a mass organization with political goals, the establishment of which had been approved by the Government, which supported it. It had legal competence and was morally, financially and administratively independent. Membership was not mandatory.

43. Talking about the way in which the Federation was involved in politics in Iraq, the representative stated that members of grass-roots organizations could participate in its discussions and that they had the right to vote in the national elections.

44. Questions were also asked about the election of the officers of the Federation and the kind of practices that it had changed or abolished.

45. In reply to a question, the representative stated that other political women's organizations also existed, but none of them enjoyed the popularity and expertise of the Federation.

46. Although the provisions of the Convention might be invoked in the courts, there had not been any cases of women having recourse to law courts in matters of discrimination.

Article 3

47. Further explanations were sought regarding the data given in tables 1 and 2 of the report and their relationship to the Government measures; it was felt that they were contradictory to the data given in table 18 of the report.

Article 4

48. As the report had not spelt out any actual temporary special measures, it was asked whether any such measures had been taken or whether the reference to them in the report constituted only a declaration of intent.

Article 5

49. Asked how the obligation of obedience on the part of women to men was compatible with the principle of gender equality, the representative said that obedience was based on mutual respect and that Iraqi law had departed from the principle of arbitrary obedience. A woman was not obliged to live with her husband under certain circumstances, such as in cases of marital violence, lack of adequate financial support, contraventions of laws or the Shariah, or failure to pay the dowry.

50. Asked about the type of legal and practical measures taken in those cases, the representative said that, in the case of marital violence, a wife might request a separation before the competent courts, she might institute legal proceedings or ask for compensation for the moral or material harm inflicted upon her. The condemnation of the husband, which could be followed by imprisonment or a money fine, might be used as a ground for divorce.

51. As to the means undertaken by the General Federation of Iraqi Women to protect female victims of violence, the representative said that their affiliated family counselling centres used a certain formula for the friendly settlement of family disputes or else they might refer the matter to the competent courts. No statistics were available on the incidence of violence against women. Members also asked what the concept of the "biological function" of women and men was in the policies of the Government.

52. In an additional comment, members observed that the one-sided duty of the wife to be obedient to her husband was contrary to the principle of equality.

Article 6

53. Asked about the effects that the law had on combating prostitution and whether, through its enforcement, prostitution and traffic in women could be eliminated, the representative said that the phenomenon could not be stamped out

through a law. However, the establishment of rehabilitation centres was aimed at preventing the recurrence of prostitution. An active role in the rehabilitation process was also played by the General Federation of Iraqi Women in administering health services, organizing educational seminars and providing financial support. But the economic blockade of the country made the provision of all those measures rather difficult.

Article 7

54. Referring to questions about the conditions for voting and being eligible to be elected to the National Assembly the representative said that the general age at which one could vote was 18 years; in certain cases, it was not less than 25 years, and it was necessary that one had Iraqi nationality and that one's parents had Iraqi nationality. The conditions were the same for women and for men.

55. The electoral system in Iraq involved voting for individual candidates rather than for lists of candidates. After the 1988 elections, the percentage of women in the National Assembly was 10.8 per cent. No quota regulations existed.

56. No statistical data were available for the percentage of women voters in the 1980, 1984 and 1988 elections, nor were explanations given on which method was applied for selecting candidates.

57. Regarding observations made by members on the low percentage of female members of political parties, the low representation of women in the judiciary, and women's absence at high-level posts in executive bodies, and regarding questions whether the reasons were lack of interest on the part of women, lack of equal opportunities or lack of the necessary encouragement, the representative stated that there were some women, although the percentage was still low. The reasons were partly illiteracy, women's unawareness of their political rights, and the preference that women gave to family obligations. Efforts were being made to increase the percentage of women in the judiciary because they had proved themselves to be capable in that field. As a result of their efficiency, women were gradually gaining self-confidence.

58. Regarding the request for statistical data on the participation of women in public administration, in general, and the percentage of women with university degrees in high-level public administration positions in particular, the representative referred to tables 1, 2-11, 13, 15 and 22 of the report.

59. No data were provided on the percentage of women in political decision-making positions nor was any answer given to the question whether political parties had their own women's organizations.

60. The representative mentioned awareness-raising programmes and seminars to encourage the political participation of women. There was also a women's magazine that dealt with economic, political and educational issues from the perspective of women. Unfortunately, its distribution had had to be suspended in the wake of the economic blockade.

61. Asked why the service of women in the army was limited to some well-defined ranks, the representative commented that military service was not compatible with the biology of women, and that data would be supplied in the subsequent report.

62. Referring to a request for more information on women in what had been referred to in the report as the autonomous region of Kurdistan, she explained that there was no inequality between women and men, they were governed by the general laws and there was a regional legislative assembly.

Article 9

63. Members urged the Government to review its Nationality Act of 1961 with a view to eliminating gender discrimination. The representative explained that, in the case of a marriage between an Iraqi woman and a foreigner, the man could not acquire Iraqi nationality nor were the children of such a union entitled to Iraqi nationality.

Article 10

64. Asked about the appropriate age for girls to leave school and get married or start working, the representative said that the parents would be sanctioned if they asked their daughters to leave school before they had completed secondary school. Girls were allowed to start working at the age of 16 years. Although it was up to the parents to decide whether their daughters continued higher education, the State was trying to encourage the higher education of girls.

65. Regarding a request for further details on the status of the Comprehensive National Campaign for the Compulsory Eradication of Illiteracy, the representative referred to the information contained in the report.

Article 11

66. Asked for a further explanation of what seemed to be a discrepancy between the status of working mothers in the private and the State sectors with regard to maternity leave, the representative said that women working in the State sector had guaranteed paid maternity leave. Private employers could not be forced to grant the same benefits because even if they were obliged to grant them, they were still free to dismiss women wishing to take maternity leave. Although the General

Federation of Iraqi Women had proposed certain measures to the authorities, it was difficult to implement them because of the economic blockade. Regarding the different retirement ages for women and men under the Workmen's Pension and Social Security Law of 1971, the representative said that that provision did not constitute discrimination because women were not forced to retire at the age of 55, but could choose to do so if they so wished.

67. Regarding a clarification of the reasons for the decrease in the number of nurseries and day-care centres, as set out in table 19 of the report, and the simultaneous increase in the number of working women in Iraq, the representative said that after the long war, the State was in favour of private day-care centres.

68. Concerning the protective legislation provided under article 81 of the Labour Law of 1987, and related questions about the type of hard work and work harmful to women's health that was prohibited, whether such prohibition was justified for objective reasons and whether it did not lead to discrimination, the representative said that there was no inventory of jobs in that category, but that the provision concerned jobs that were not compatible with the biology of women.

Article 12

69. Asked whether women's health, in general, was protected by legislation or whether the Law of Public Health of 1981 referred only to motherhood, the representative stated that adequate health services were provided free of charge to everyone.

70. Regarding questions relating to the practice and number of abortions, and to the availability, legal coverage and easy accessibility of family planning means and methods, the representative stated that abortions were generally considered to be against the provisions of the Shariah, but for medical reasons they could be carried out in public hospitals, but not in private clinics.

71. Asked about the percentage of maternal mortality, the representative said that the maternal mortality rate had been rising since the blockade, especially as a result of malnutrition, weakness and anaemia.

72. Considering comments on the high percentage of women undergoing surgery, the representative said that abortions could be included in the figures given in table 21 of the report if they had been carried out on a medical prescription. Asked whether women doctors were employed only in government hospitals or also in private clinics, the representative said that the statistical data covered only women doctors in public hospitals.

Article 13

73. Regarding a request for further clarification on women's access to credit, and questions whether the beneficiaries were only public administration officials or also rural or even illiterate women, the representative said that loans were given to rural women if they were landowners; however, the granting of loans had generally been reduced as a result of the blockade.

74. In an additional comment, further clarification was requested on the access of women to credit, bearing in mind that credit constituted the doorway to economic activity for women.

Article 14

75. Regarding a request for more information on the measures that existed to ease the situation of rural women, the representative referred to the information contained in the report under article 14. She also said that women were able to conclude contracts with cooperatives in their own name.

76. A clarification was requested of the statement in the report that the application of laws and regulations to rural women still left "something to be desired". It was asked whether it was because of lack of information, illiteracy, discrimination on the part of banking institutions, pecuniary problems or lack of self-confidence on the part of women. It was also asked what were the reasons for, and what was the percentage of, farmers' households that were headed by single women.

Article 15

77. The representative said that the judicial proceedings were in conformity with the Convention. No information was given on how the legal provisions that protected women's rights were disseminated.

Article 16

78. Members welcomed the extensive explanations in the report in connection with article 16, but they commented negatively on the persistence of polygamy in Iraq. Referring in particular to a decree of 1991, according to which a loan of 7,000 dinars was granted to any man who married a war widow, it was commented that such an encouragement of polygamy was unacceptable. Asked whether the decree had been promulgated and whether its provisions were subject to any limitations, the representative said that it was of a temporary nature and had been put into force for the protection of women before the outbreak of the war. Widows of men who were termed "martyrs" were granted lodging, a vehicle, financial facilities, credits and higher salaries.

79. No information was supplied on the incidence of polygamous marriages and on whether women wished to change the system of polygamy. However the representative explained that, in Iraq, polygamy was allowed only under certain very strict conditions, as set out in the report. In case of non-compliance, the consequences were three to five years' imprisonment for the husband and the possibility for the wife to request a divorce.

80. The minimum marriageable age was 15 years for both girls and boys with - and 18 years without - parental authorization. With regard to the reason why a mentally ill person could contract a marriage, but why such a person's divorce was not valid, the representative said that, under the Shariah, a mentally handicapped person could conclude a marriage if a certificate, signed before a competent legal authority, indicated that the spouse was aware of the handicap and was still prepared to enter into the marriage. In such a case, no divorce based on the existence of the handicap could be granted later.

81. In clarifying the term "legitimate woman" in the definition of a marriage contract in the report, the representative said that the term was really "legitimate wife", thus excluding sisters and other close relatives.

82. Asked about the possibilities for a woman to obtain a divorce and whether they were identical for both spouses, the representative referred to the information contained in the report and said that both spouses could request a divorce for certain well-specified reasons. The marriage could also be annulled if it had not been consummated within two years, if the husband had a contagious disease or if he refused to contribute to the wife's maintenance. A woman could also divorce her husband for lack of harmony, a very common ground for divorce, which could encompass many reasons. After divorce, the woman was entitled to reside for three more years in the marital domicile. If the husband divorced his wife without an acceptable reason, the wife could request financial compensation. If a marriage was contracted under duress or with the use of violence, the perpetrator was imprisoned for 3 to 10 years.

83. Information was requested on whether the provision under which "a mother is more entitled to the custody of her child during her marriage", and after separation, conformed to the Shariah. Members also asked whether the General Federation of Iraqi Women had been opposing the current practices and laws in family relations and whether there were any other areas in which personal laws had such a strong impact on the status of women in Iraq as in the field covered by article 16 of the Convention.

84. In additional comments, the representative pointed out that the example of other Muslim countries showed that it was possible to base the provisions in force on secular laws rather than on the Shariah, and consequently to do away with

polygamy. Even if all legislation remained within the purview of the Koran, new interpretations could be found in order to change the policies of the country.

Concluding observations

85. The representative of Iraq stressed the political will of her country to implement the articles of the Convention with the aim of promoting the social, economic and cultural status of women. In spite of the difficult situation brought about by the war, the country was pursuing the goal of progressive legislation. Women faced obstacles that had to be periodically reviewed in order to abolish discriminatory laws. Another obstacle was the psychological reluctance on the part of both women and men to accept the enacted new laws. But the backwardness of developing countries in general and the economic blockade had most severely harmed the situation of women.

86. Members commended the informative replies given by the representative of Iraq and expressed understanding for the difficult economic and political conditions in which the Government was trying to promote the advancement of women. It was hoped that the subsequent report would be submitted as early as possible and that it would contain details about the number of women and children that had been affected by military action and the blockade. Members commended the political determination of Iraq to improve the status of women in the process of modernization; however, they questioned how progress could be achieved if the reservations to the Convention were maintained.