

Women in the New Iraqi State

Bonnie Sarigianis

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Professor Wolff

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Introduction:

One of the goals of the American invasion of Iraq was to promote democracy and liberate the Iraqi people from an oppressive regime under Saddam Hussein. Despite the appearance of democracy advancement following the 2003 Iraq War, it is questionable whether Iraqi citizens are freer now than they were under the Baath Regime. Women, in particular, have suffered from both the violence caused by the invasion and the increasing political marginalization in the new Iraqi state. At the same time, there has been an assault on women's legal rights, which were secular and progressive before the invasion occurred.

Methodology:

In exploring this topic, I based much of my research on books and articles written by Iraqi women. One of the most significant authors on the topic, Nadjé Sadig Al-Ali, is a political activist and a scholar on women's studies. Several of my sources were specifically about women in Iraq, however I also made use of more general political sciences sources about the political transition process. I found reports from Human Rights Watch, the UN, and the State Department very helpful in obtaining information and statistics on human rights abuses against women.

My research goals changed as I learned more about the topic. Originally, I intended to devote much of my paper to developments in very recent years, however, I changed course because the most significant developments impacting women in Iraq happened shortly after the invasion in 2003-2005. The problems caused by the way that the Americans structured the political bodies still persist today. The legislation established in the permanent constitution of 2005, have not undergone major changes. Therefore, I decided to devote much more attention to the political transition, because it was complex and is the source of many problems facing women.

In tackling the complex question of how the situation for women has changed in Iraq, I focused my attention on three main spheres: women's employment, women in politics, and women's legal rights.

The Baath regime came to power in February 1963 when Baathist and Arab nationalists overthrew the government of Prime Minister Abd al-Karim Qasim.¹ The time following the coup was extremely violent. The Baath National Guard did not show any reservations in using violence as a means to maintain political control over the state. Between three and five thousand supporters of the Qasim regime were arrested, tortured, and killed. Women were not immune from this crackdown, and many rape crimes were committed by members of the National Guard. The level of violence receded once the Non-Baathist officer, Abd al-Salam Arif, became president, dissolved the unpopular National Guard, and established a military government. Although President Arif brought about a less repressive governing body, his desire to appease both Sunni and Shii religious leaders, led him to adopt conservative measures that encroached on women's rights.²

One of President Arif's first actions as president was to amend the Personal Status Code, created in 1959 under Prime Minister Qasim. The Personal Status Code regulated such matters as divorce, polygamy, and inheritance. Before this code was created, personal status matters were regulated by the Sunni and Shii *ulama*, or religious authority. In the 1940's and 1950's, when Iraq was still a monarchy, women activists pushed for a secular code for regulating personal status matters, but opposition from the *ulama* prevented any of the drafted reforms from becoming law. After the monarchy was toppled, a Personal Status Code came into effect and

¹ Hollingworth, Clare. "The Ba'athist Revolution in Iraq." *The World Today* 19, no. 5 (May 1963): 225-30. JSTOR. 226.

² Al-Ali, Nadjé, and Nicola Pratt. *What Kind of Revolution*. Berkeley: U of California, 2009. 29-30

took power out of the hands of the *ulama* and gave it to judges. The Code was progressive and secular. It placed many limitations on polygamy and granted women equal inheritance rights with men. President Arif made the Personal Status Code more conservative by removing some of the barriers to polygamy and changing the inheritance laws to once again be based on Islamic Law, where women receive less inheritance than men.³

In 1968, the Baath Party staged a coup to oust President Arif and replace him with a new president, Hassan al-Bakr. Although Saddam Hussein had not yet assumed control over the state at this time, he assumed a powerful role in the Baath Party and had a strong influence over the Party's decisions. The 1968 coup marked the beginning of a "dictatorial, repressive, and fascist regime."⁴

In the 1970's, Iraq's thriving economy played a role in shaping the regime's policies towards women. As the economy grew, the demand for labor grew as well, and the government looked to incorporating more women in the labor force as a means of satisfying this demand. In order to do this, the government offered incentives for women to work, such as free childcare and transportation to and from schools and workplaces. At the same time, the regime encouraged women to educate themselves, so that they could better contribute to the Iraqi economy. One of the policies designed to encourage education was the 1974 legislation that promised all university graduates a job. The idea of a working, educated Iraqi mother was not only accepted, but also encouraged. However, this shift in government policy towards more equality between the sexes was motivated by practical economic factors, and not by an underlying belief that women deserve equal treatment with men. Iraq remained a patriarchal, conservative country, and in the private sphere women were still seen as inferior to men. These policies are reminiscent of

³ Efrati, Noga. "Negotiating Rights in Iraq: Women and the Personal Status Law." *Middle East Journal* 59, no. 4 (August 2005): 577-79. JSTOR. 579-580.

⁴ Al-Ali, Nadjie, and Nicola Pratt. *What Kind of Revolution*. 30.

Nasser's regime in Egypt, where he implemented more liberal policies in the public sphere while retaining a conservative ideology in the private.

Another motivation for the policies encouraging employment and education was a desire to indoctrinate the Iraqi citizens. It was easier for citizens to be susceptible to propaganda if they were in the public sphere and not remaining in their homes. Schools, universities, workplaces and the media all became vehicles for government propaganda. The regime pressured all citizens to join the Baath Party, and neither women nor men enjoyed any degree of political freedom. One method of pressuring citizens to join the party was to reward Baathist Party members with better careers than non-members. By the late 1970's certain career paths, especially those related to teaching, were closed off to all non-Baath affiliated individuals. Furthermore, the regime engaged in a brutal crackdown on any individuals associated with opponent political parties. Women's experience living under the Baath regime at this time varied greatly, depending on her level and type of political activeness.⁵

There was only one approved outlet for women's political participation: the General Federation of Iraqi Women, or GFIW, which was founded in 1968. There were many branches of the organization throughout the country, which facilitated its increase in influence and membership. By 1982, there were approximately 200,000 members. Despite the fact that the GFIW was affiliated with and funded by the Baath party, it still provided beneficial services to Iraqi women and alongside the regime, encouraged education and employment for women, as well as provided a public presence for women to have a voice in a patriarchal society. In 1978, the GFIW helped implement a literary campaign initiated by the regime, which required all

⁵ Al-Ali, Nadje, and Nicola Pratt. *What Kind of Revolution*.31-36.

illiterate adults to participate in a two-year literary program. These educational policies contributed to Iraqi women being among the most educated women in the region.⁶

A shift in government policy towards women occurred during the Iran-Iraq War from 1980 to 1988. Women needed to make up the gap in the workforce caused by the absence or death of the Iraqi men, who were fighting. The government worked with the GFIW to bring more women into the labor force. This led to the National Campaign to Increase Women's Participation in the Economic Development Process in 1983, which opened four employment centers to assist women in preparing for and finding a job. The campaign was not overly successful due to two main reasons: Many employers faced with increasing financial hardships disregarded the Labor Law, which mandated that certain services, such as transportation and daycare expenses, be provided to employees. This meant that many women could no longer afford to work absent these social services. Secondly, at the same time that the regime was encouraging women's employment, it was simultaneously asking women to assume a more traditional role by prioritizing childbearing over having a career. In 1987, Saddam Hussein announced the establishment of a fertility campaign, where each woman was asked to have a minimum of five children. According to Hussein, "Family with less than four children should be severely rebuked." Incentives were offered for women to leave their jobs to have more children.⁷

The two goals of the government regarding women during the Iran-Iraq war were at conflict with each other. The government wanted to see women both in the home raising children and in the workplace replacing the men at war. The overall result of these conflicting goals was a shift in ideology towards a more conservative stance regarding women. This may be attributed to the militarization of society, where the state promoted the image of the male fighter and defender

⁶ Lasky, Marjorie P. "Iraqi Women under Siege." *Global Exchange*: 1-20. JSTOR. 3-4.

⁷ Efrati, Noga. "Productive or Reproductive? The Roles of Iraqi Women during the Iraq-Iran War." *Middle Eastern Studies* 35, no. 2 (April 1999): 27-44. JSTOR.28-35.

of the nation and the Iraqi mother whose primary role was to produce more male offspring, and whose working role was secondary to this.⁸

The 1990's was a period of an even greater turn towards conservatism than the previous decade. This was caused by economic sanctions placed on the Iraqi regime following Iraq's invasion of Kuwait in August 2, 1990. Four days following the invasion, the UN Security Council passed Resolution 661, which under Chapter VII authority placed a ban on all trade with Iraq with the exception of food and medicine. The sanctions had a devastating impact on the Iraqi economy and the level of health of the Iraqi people, causing widespread and severe malnutrition. Although all Iraqis were affected by the sanctions, women were more burdened by the sanctions than men because they were the ones responsible for caring for the health of their families and for providing meals. The problems of malnutrition were exacerbated when Saddam Hussein at various times, in blatant disregard of the wellbeing of his people, sought to worsen the shortages in an effort to compel the UN to lift sanctions.

In the public sphere, when employers cut jobs due to financial hardship, women were more likely to lose their job than men, because they were seen as less valuable in the workplace. Many women who tried to find work in the informal sector, for example as a seamstress, struggled to make ends meet as demand for all unnecessary services fell.⁹ The employment rate of women, which at 23% in 1991 had been the highest in the region, fell to 10% by 1997. Many women who were not fired, left their jobs when the government eliminated free services for working women, such as childcare and transportation. The combination of rising inflation,

⁸ Al-Ali, Nadjie, and Nicola Pratt. *What Kind of Revolution*. 38.

⁹ Buck, Lori. "Sanctions as a Gendered Instrument of Statecraft: The Case of Iraq." *Review of International Studies* 24, no. 1 (January 1998): 69-84. JSTOR. 76-81.

decreasing salaries, and the elimination of free services made it impractical for many women to continue to work.¹⁰

Although marriage was often seen as a way out of financial hardship for single Iraqi women, it became a less viable option, because fewer men were able to afford to provide the *maher*, or dowry, demanded by the bride's family from the future husband.¹¹ Women who did marry were more willing to enter into polygamous marriages or marriages with much older men. Additionally, married women often resorted to selling their *maher* in exchange for food or other necessary goods. The loss of wealth corresponded with a loss of influence and power in relations with the husband's family.¹⁰

The decline in Iraq's economic prosperity was associated with a decline in education. The illiteracy rate for Iraqi women, which had been 8% in 1985, reached an astounding 55% by the late 1990's. The dropout rate for girls in primary education reached 35%, as families were no longer able to afford to send their children to school.

As Iraqis struggled just to meet their basic needs, they turned increasingly towards religion for a sense of hope. Saddam Hussein tapped into this "religious sentiment" in order to gain support, and the result was a shift towards a more conservative ideology. Most schools became segregated, and those that did not still sought to prevent interaction between the sexes. The shift in ideology contributed to Saddam Hussein's decision to brutally crack down on any women, who out of financial desperation, turned to prostitution as a means of making a living. In 2000, three thousand alleged prostitutes and men suspecting of "pimping" were beheaded.¹²

Although the Baath regime in some ways instituted policies beneficial to women, by allowing women to have a voice in the public sphere and encouraging their education and

¹⁰ Al-Ali, Nadjé, and Nicola Pratt. *What Kind of Revolution*. 46-47.

¹¹ Buck. 82.

¹² Al-Ali, Nadjé, and Nicola Pratt. *What Kind of Revolution*. 47-49.

integration into the workforce in the 1970's, the Baath regime is also to blame for many human rights abuses, especially during the reign of Saddam Hussein. In 2002, the UN condemned Saddam Hussein for "systematic, widespread and extremely grave violations of human rights and international humanitarian law."¹³ Many of these abuses were directed against women. An example is Saddam Hussein's decision to allow the addition of Article 111 to Iraqi penal code in 1990, which stated that there would be no punishment for men who committed honor killings, meaning the murder of a woman suspected of committing sexual improprieties.¹⁴ Saddam Hussein's oldest son, Uday Hussein, was notorious for his violent and sexual abuse of women, and served as a reminder of the regime's tolerance and acceptance of abuse against women.¹⁵

Before the war of 2003 began, the U.S. emphasized that empowering Iraqi women would be one of America's priorities following the regime change. Two weeks before the invasion, then Undersecretary of State for Global Affairs, Paula Dobriansky, stated in a press conference that: "We are at a critical point in dealing with Saddam Hussein. However this turns out, it is clear that women of Iraq have a critical role to play in the future revival of their society."¹⁶ Following the invasion, the United Nations Security Council passed Resolution 1483, which called for the occupying forces to establish "rule of law [in Iraq] that affords equal rights and justice to all Iraqi citizens without regard to ethnicity, religion, or gender, and in this connection, recalls Resolution 1325 (2000) of 31 October 2000."¹⁷ Resolution 1325, which was passed in 2000, states that women should play a significant role in post-conflict reconstruction.¹⁸ However, the Resolution

¹³ Kirby, Emma. "UN condemns Iraq on human rights ." BBC. http://news.bbc.co.uk/2/hi/middle_east/1940050.stm.

¹⁴ Cardoso, Amy V., ed. *Iraq at the Crossroads*. Hauppauge: Nova, 2007. 118.

¹⁵ Brown, Lucy, and David Romano. "Women in Post-Saddam Iraq: One Step Forward or Two Steps Back?" *NWSA Journal* 18, no. 3 (2006): 51-70. JSTOR. 56.

¹⁶ Al-Ali, Nadje, and Nicola Pratt. "Women in Iraq: Beyond the Rhetoric." *Middle Eastern Report* (2006): 18-23. JSTOR. 18.

¹⁷ United Nations Security Council. "Resolution 1483 (2003)." 2006. <http://www.uncc.ch/resolutio/res1483.pdf>.

¹⁸ United Nations Office of the Special Advisor on Gender Issues and Advancement of Women. "Landmark resolution on Women, Peace and Security ." <http://www.un.org/womenwatch/osagi/wps/>.

may have produced the opposite effect, because as demonstrated by its application in Afghanistan, it is viewed in the Arab World as being an underhand method of forcing westernization and foreign values on society. Resolution 1325 has caused women's movements in both Iraq and Afghanistan to be viewed with suspicion and seen as having ulterior motives. The disproportionate role given to Iraqi women from the diaspora in women's organizations has increased suspicion of forced westernization through the pretense of women's empowerment.¹⁹

It is clear from American rhetoric about Iraqi women that the U.S. Administration did not have a deep understanding of the reality of the situation for women living under the Baath Regime. This misunderstanding was often based on stereotypes about Islam and not on factual evidence. For example, in a broadcast on National Public Radio in 2005, the senior coordinator for the International Women's Issues Office in the State Department, Charlotte Ponticelli, extolled the improvement in the situation for women in Iraq and Afghanistan. She claimed that under Saddam Hussein, Iraqi women were forbidden to study in schools and universities; a fact that could not be further from the truth.²⁰

The chaos immediately following the invasion in 2003 produced a "climate of fear," where Iraqi women were afraid to leave their homes due to looting and increased violence. Although the increase in violence affected all Iraqis, women in particular became the targets of sexual violence and abductions.²¹ According to a 2003 Human Rights Report on Iraq, sexual crimes and abductions were prevalent in Baghdad. The report expressed concerns that the level of sexual violence against women was actually higher than officially reported because victims of sexual assault or rape often did not report the crime out of fear of honor killings or loss of

¹⁹ "Reconstructing Gender: Iraqi Women between Dictatorship, War, Sanctions and Occupation." *Third World Quarterly* 26, no. 4/5 (2005): 739-58. JSTOR. <http://www.un.org/womenwatch/osagi/wps/>. 743.

²⁰ Al-Ali, Nadjie, and Nicola Pratt. *What Kind of Revolution*. 21-22.

²¹ Al-Ali, Nadjie S. *Iraqi Women*. London: Zed, 2007. 226.

reputation. Additionally, Human Rights Watch charged the U.S.-led coalition forces with “failure to provide public security in Baghdad.”²² According to the Geneva Convention, when a country is under occupation it is the responsibility of the occupying forces to provide protection for the civilians.²³ Furthermore, Article 27 of the Fourth Geneva Convention states that “Women shall be especially protected against any attack on their honor, in particular against rape, enforced prostitution, or any form of indecent assault.”²⁴ The U.S. is to blame for not effectively quelling the violence, and also partly to blame for causing the violence in the first place due to the adoption of a de-Baathification policy. According to this policy, government institutions and the top three tiers of the public sector would be stripped of all high-ranking Baath Party members. This is another example of the U.S. Administration’s lack of knowledge about the region: Iraqi citizens were pressured to join the Baath Party, and many did so in order to avoid conflict with the regime.²⁵ By removing Baath Party members from government institutions and the public sector, the U.S. not only created widespread unemployment and removed the infrastructure necessary for a successful nation-building mission, but also created a security vacuum because the Iraqi Army as well as much of the police force were disbanded. Many Iraqis working in the security sector, who lost their jobs, joined the insurgency against the American occupation.²⁶

The power vacuum in Iraq provided an opportunity for criminals to act without repercussions. The 2005 Trafficking in Persons Report, released by the U.S. State Department,

²² "Climate of Fear: Sexual Violence and Abduction of Women and Girls in Baghdad." *Human Rights Watch* 15, no. 7 (July 2003): 1-17. 1.

²³ Al-Ali, Nadjie, and Nicola Pratt. *What Kind of Revolution*. 177.

²⁴ International Committee of the Red Cross. "Article 27." <http://www.icrc.org/ihl/WebART/380-600032?OpenDocument>.

²⁵ Al-Ali, Nadjie, and Nicola Pratt. *What Kind of Revolution*. 67-73.

²⁶ Fontan, Victoria. *Voices from Post-Saddam Iraq*. London: Praeger Security International, 2008. 27-32.

showed an increased in the number of women, who are abducted from Iraq. Most of the women are trafficked to Yemen, Syria, Jordan and the Gulf for sexual and labor exploitation.²⁷

Approximately six months after the invasion, there were new actors involved in contributing to the level of violence in Iraq. The majority of the violence committed in the immediate aftermath of the invasion was carried out by criminal gangs. However, Islamic militants and terrorist groups, with a political agenda, began adding to the violence.²⁸ By doing so, they placed pressure on women to dress and act in a more conservative way. Women who dressed in Western clothes were targeted, leading the majority of women, including Christians, to not leave their house without a *hijab*, or head covering.²⁹ Leaders of religious extremist groups released *fataawa* (singular: *fatwa*); an Islamic legal decree that would forbid a certain action. Following this, the groups would attack women not in compliance with the *fatwa*. In particular universities were targeted, because they were seen as a symbol of secular, Western influence. There were occurrences of bombings on university campuses and demands that classes be segregated. Since 2003, thousands of female students have withdrawn from universities in Iraq. The threats and attacks against women contributed to the country turning even more conservative than in the 1990's.³⁰ For Islamic militant groups, attacking forms of Western behavior served as a way of resisting the occupation and symbolically breaking from the previously secular regime under Hussein.³¹

Although the U.S. Administration gave “lip service” to the importance of promoting gender equality in Iraq, American actions during the reconstruction process showed that women’s rights were not a high priority. Before the invasion, the Department of Defense

²⁷ "U.S. State Department." *Trafficking in Persons Report* (June 2005). 232.

²⁸ Al-Ali, Nadjé S. *Iraqi Women*. 229.

²⁹ Lasky. 8.

³⁰ Al-Ali, Nadjé S. *Iraqi Women*. 240-245.

³¹ Al-Ali, Nadjé S. "Reconstructing Gender." 754.

established a team under the Office of Reconstruction and Humanitarian Assistance (ORHA) to manage the reconstruction efforts in Iraq following hostilities.³² This represented a break from normal protocol for nation building, because the non-military tasks of an occupation are usually given to the State Department, and not the Department of Defense.³³ The 200-member team, led by retired army General Jay Garner, lacked “on-the-ground knowledge” mostly due to the fact that the U.S. had not had diplomatic relations with Iraq since 1990.²² General Garner underestimated the complexity of the nation-building task, and falsely assumed that the occupation would be short lived.³⁴

After it became apparent that the reconstruction efforts were failing due to the worsening violence, General Garner was replaced by Lieutenant Paul Bremer, who established the Coalition Provisional Authority (CPA) on April 21, 2003. The CPA was anxious to expedite the process of turning over sovereignty to the Iraqis, and Bremer abandoned the Bush Administration’s original plan of transferring power only after a permanent constitution could be written and elections were held. He instead decided to hold elections for an interim Iraqi government, which would assume sovereignty over the country.³⁵

The CPA had many inherent problems. It was supposed to be a civilian organization, but it was dominated by military personnel. Furthermore, it lacked members who were regional experts and spoke the local Arabic dialect.³⁶ Through the CPA, the U.S. Administration designated millions of dollars specifically for professional training and educational programs for women. However, the CPA failed to realize that without political representation within the new

³² Westcott, Kathryn. "The Americans who will run Iraq ." BBC. http://news.bbc.co.uk/2/hi/middle_east/2932965.stm.

³³ Hook, Steven W., and John Spanier. *American Foreign Policy Since World War 2*. 19th ed. Los Angeles: Sage, 2013. 298.

³⁴ Dobbins, James, Seth G. Jones, Benjamin Runkle, and Siddharth Mohandas. "The Americans who will run Iraq ." RAND. 2009. xix.

³⁵ Diamond, Larry. "What Went Wrong in Iraq." *Foreign Affairs* 83, no. 5 (September 2004): 34-56. 47-48.

³⁶ Dobbins. xvi-xvii.

government, women were likely to become marginalized despite the existence of these women's programs.³⁷

In July 2003, the Iraqi Governing Council was established to act as an advisory committee to the CPA. When choosing members for the IGC, Bremer sought to achieve a sectarian balance between Shiite and Sunni politicians, and also wanted to choose representatives from political parties in favor with the Iraqi people, thereby giving the IGC a degree of legitimacy. There were six main parties represented: Dawa and SCIRI, which were both Islamic Shiite parties, the Kurdish Nationalist parties, PUK and KDP, and finally two U.S.-backed secular parties: INC and INA. A consequence of Bremer's focus on achieving a sectarian balance was that there was little attention paid to women's representation on the IGC. Furthermore, Bremer was opposed to the idea of having a gender quota for the IGC because he did not wish to reduce its political legitimacy and he sought to gain favor with the Islamist parties. Out of the 25 members on the council only three of them were women, and of those, only two had any political experience. The sectarian quotas were not successful in giving the IGC legitimacy among the Iraqi people. This is most likely due to the significant presence of members who were exiles and therefore not seen as truly representing the Iraqi people.

Despite its lack of political legitimacy, the IGC attempted to make a large impact on Iraqi laws pertaining to gender, when on December 29, 2003, the council passed Resolution 137, which abolished the Personal Status Law of 1959 and replaced it with sharia-based law to be administered by religious leaders. This resolution was passed in secret and was not made public to the U.S. Administration or the Iraqi people until January 13, 2004. When the news of Resolution 137 was released, the U.S. was willing to fight against it, but this was not necessary.

³⁷ Hunt, Swanee, and Cristina Posa. "Iraq's Excluded Women." *Foreign Policy* 143 (July 2004): 40-45. JSTOR.

Thousands of Iraqi women took to the streets to protest the resolution, leading to it being overturned.³⁸

This is a demonstration of one of the few positive impacts that the regime change has had on women's rights, namely the possibility for more political outlets for women besides one government-affiliated organization, as it was under the Baath regime. After 2003, a plethora of women's organizations, such as the National Council of Women and the Iraqi Women's Higher Council, were established throughout the country. Despite the fact that these organizations are primarily funded by and made up of women from the political elite, they still have a beneficial effect on women's representation and their projects are beneficial to women in all strata of society. There are two main "rallying points" that have attracted women to participate in these organizations: The first was opposition to Resolution 137, and second, the desire to have a quota system for women in the National Assembly.³⁹

A group of 24 members selected from the Iraqi Governing Council was responsible for the drafting of an interim constitution, known as the Transitional Administrative Law (TAL), which was determine the political transition schedule, as well as provide a legal code to govern Iraq until a permanent constitution could be written.^{40 41} The drafting process began in February 2004, and the TAL was made official on March 8. There were no female members on the TAL drafting committee. A more worrying development however, was that during the drafting process, the secular and progressive Personal Status Law of 1959 again came under dispute. Several Shiite members of the committee wanted to abolish the Personal Status Law and replace

³⁸ Al-Ali, Nadjé, and Nicola Pratt. *What Kind of Revolution*. 90-93

³⁹ Al-Ali, Nadjé S. "Reconstructing Gender." 755

⁴⁰ Hunt. 43.

⁴¹ Al-Ali, Nadjé, and Nicola Pratt. *What Kind of Revolution*. 94-95

it with Sharia-based law.⁴² Although these members were not successful in obtaining this outcome, the resulting document was a compromise between secular and conservative ideas. On the surface the Transitional Administrative Law does not appear to be a radical break from the legal code under Saddam Hussein. Article 12 appears to guarantee equal rights for women: “All Iraqis are equal in their rights without regard to gender, sect, opinion, belief, nationality, religion, or origin, and they are equal before the law. Discrimination against an Iraqi citizen on the basis of his gender, nationality, religion, or origin is prohibited. Everyone has the right to life, liberty, and the security of his person...All are equal before the courts.”⁴³ Additionally, women activists were successful in pressuring the ICG to include in the TAL a 25% quota for women. Although the activists were hoping for a 40% quota, the resulting compromise was still beneficial for women’s political representation.

However, the seemingly progressive articles of the TAL are offset by the inclusion of Article 7, which states: “Islam is the official religion of the State and is to be considered a source of legislation. No law that contradicts the universally agreed tenets of Islam...may be enacted during the transitional period.”⁴¹ This article is vague and is open to be interpreted in a fundamentalist way.³⁹ Following the publication of the TAL, Article 7 became a domestic and international controversy. It was not clear to the Iraqi people or to the U.S. whether Article 7 was merely symbolically emphasizing the role of Islam in the country or whether it was meant to give Islamic Law a place in legislation. Adding to its vagueness, is the fact that in addition to a

⁴² Brown, Lucy, and David Romano. 62-63.

⁴³ The Coalition Provisional Authority . "Law of Administration for the State of Iraq for the Transitional Period." 2004. <http://web.archive.org/web/20090423064920/http://www.cpa-iraq.org/government/TAL.html>.

significant Christian minority, Iraq contains both a significant Sunni and Shiite population, and these two sects of Islam have different interpretations of Islamic Law.⁴⁴

In March 2004, the U.S. announced its plan for a Women's Democracy Initiative in Iraq. The Bush Administration pledged 10 million dollars to seven U.S.-based NGO's for various projects related to women's empowerment such as democracy education and political training. Many women activists in Iraq felt that the Women's Democracy Initiative was hypocritical, because the U.S., acting through the CPA, did not take sufficient measures to ensure that women would be represented in the new government. This view was expressed by one activist who stated: "We did not need democracy training in five star hotels. We needed humanitarian assistance and a proper political process."⁴⁵

In July 2004, the U.S. made steps towards ending the occupation by abolishing the IGC and replacing it with the Iraqi Interim Government (IIG). The IIG had the responsibility of organizing the elections for the Transitional National Assembly, where a permanent constitution would be drafted.⁴⁶ This political transition would shift power from the American-run CPA and give it to the Iraqis.⁴⁷ The UN Security Council passed Resolution 1546, which approved the power transition and declared that Iraq should be granted sovereignty by June 30, at which point the American occupation would end.⁴⁸ The coalition forces were to remain, but only to provide

⁴⁴ Brown, Nathan J. "Transitional Administrative Law ." The George Washington University. <http://home.gwu.edu/~nbrown/interimiraqiconstitution.html>.

⁴⁵ Al-Ali, Nadjé. "Women's Organizing and the Conflict in Iraq since 2003." *Feminist Review* 88 (2008): 74-85. JSTOR. <http://home.gwu.edu/~nbrown/interimiraqiconstitution.html>. 77-78

⁴⁶ Herring, Eric, and Glen Rangwala. *Women's Organizing and the Conflict in Iraq since 2003*. Ithica: Cornell U, 2006. <http://home.gwu.edu/~nbrown/interimiraqiconstitution.html>. 32.

⁴⁷ Al-Ali, Nadjé, and Nicola Pratt. *What Kind of Revolution*. 96

⁴⁸ United Nations Security Council. "Security Council Endorses formation of Sovereign Interim Government in Iraq." <http://www.un.org/News/Press/docs/2004/sc8117.doc.htm>.

security.⁴⁴ President Bush described the day, on which the IIG was established as a “‘Day of great hope’ for Iraqis” and hailed the “arrival of a full sovereign and free Iraq.”⁴⁹

Similar to the IGC, which preceded it, the IIG was flawed. The same political groups that were in power in the IGC, also had the majority of the seats in the IIG. Out of 31 ministers and deputy ministers, there were only five female ministers and six female deputy ministers. Bremer made the same mistake of giving precedence to having a sectarian balance above other considerations. Iraqi expert and political scientist Toby Dodge criticized the CPA’s poor decision-making when forming the IIG: “‘After describing the IGC members as ‘feckless’ and incapable of reaching out to the wider Iraqi population,..the CPA brought the same people back into government.’”⁵⁰

The IGC did not veer from the timetable set out for holding National Assembly elections in January 2005, despite that the security situation was rapidly deteriorating due to a violent insurgency led by the Mahdi Army, an Islamic Shiite force.⁵¹ The elections were premature and rushed, and gave the appearance of democratic progress without any genuine advancement. In an effort to expedite the election process, the CPA designated Iraq as a single constituency, instead of dividing the country into regions.⁵² Another motivating factor behind this decision was the fear that a system of regional districts would empower Shiite and Sunni Islamist Parties.⁵³

There were several problems associated with treating Iraq as a single constituency: The candidates who won in the elections would not represent a particular district, and therefore their loyalties would lie with their party affiliation rather than with their voting district. Secondly, this distanced the relationship between the voter and candidate and meant that voters were more

⁴⁹ The Guardian. "US Hands over Power in Iraq." <http://www.theguardian.com/world/2004/jun/28/iraq.iraq1>.

⁵⁰ Herring. 32.

⁵¹ Fontan. 136.

⁵² Kadar, Nemir. *Saving Iraq*. London: Weidenfeld, 2009. 134.

⁵³ Fontan. 140.

likely to vote along ethnic and sectarian lines. Finally, there was a risk that if a certain region of Iraq experienced low voter turnout, that region could end up without representation in the Transitional National Assembly. There were many critics of how the elections were managed. Democracy scholar, Larry Diamond, was concerned that the Islamist parties, which were the most organized, would dominate the elections. He remarked that “the American occupation could wind up paving the way for the ‘election’ of an Iranian-linked Islamist government in Baghdad.”⁵⁴

There were two main coalitions, which dominated the elections: The Shiite United Iraqi Alliance, a coalition dominated by the two the Shiite parties DAWA and SCIRI, and the Kurdistan Alliance, which was composed mainly of members from the KDP and PUK parties.⁵⁵ The Shiite candidates were well organized and aggressive in their campaigning. They were aided by the endorsement from the Ayatollah Sistani, the highest ranking Shiite leader in Iraq, who influenced the Iraqi Shiite population by endorsing a list of candidates from the United Iraqi Alliance.⁵⁶ The Shiite parties also engaged in intimidation tactics to sway more votes in their favor.⁵⁴ The coercion of voters by Shia as well as Ayatollah Sistani’s manipulation in the election process eroded the possibility of truly democratic elections taking place.

The IGC, when it drafted the TAL, did include some stipulations in an effort to prevent domination of the election by powerful parties, such as the United Iraqi Alliance. One of these measures was that every third candidate was a woman.⁵⁷ Another measure stipulated that candidates only needed five hundred signatures in order to run in the elections. Women’s

⁵⁴ Al-Ali, Nadjé, and Nicola Pratt. *What Kind of Revolution*. 101

⁵⁵ Al-Ali, Nadjé, and Nicola Pratt. *What Kind of Revolution*. 101-102

⁵⁶ Fontan. 140.

⁵⁷ Fontan. 141.

organizations made efforts to encourage women's participation in the election process by sponsoring programs on democracy education and training for candidates.

Despite these efforts, women were still marginalized in the elections, both as voters and candidates. The level of violence and instability in Iraq were contributing factors, because many women were at risk in leaving their homes to vote.⁵⁸ There were also cases of women being denied the right to vote by their husbands, or being told by their husbands, for which candidate to vote.⁵⁸ Due to the security crisis, many candidates were afraid to publish their names, because both male and female candidates suffered from threats and assassination attempts. The candidates from smaller parties were most affected by this, because without a well-known political affiliation, the chances of being elected were slim.

The election results were disconcerting for women activists. The only positive outcome was that the 25% quota, introduced in the TAL, guaranteed at least the presence of women in the Transitional National Assembly. Eighty-seven women were elected, constituting 31% of the seats.⁵⁹ The United Iraqi Alliance, with 140 seats in the TNA, won the majority. The Kurdistan Alliance obtained the second highest representation with 75 seats. Many Sunni Iraqis boycotted the elections, because they resented the domination of the campaigning process by the Shiite parties, and as a result there was a disproportionately small Sunni representation in the TNA. This further incited the sectarian tension that dominated the political process since the fall of Saddam Hussein. The fact that the Islamist UIA Party obtained a majority in the TNA was disconcerting because the conservative party would have a great influence on the drafting of the constitution.⁶⁰

⁵⁸ Al-Ali, Nadjé, and Nicola Pratt. *What Kind of Revolution*. 101-102.

⁵⁹ Brown, Lucy, and David Romano. 63.

⁶⁰ Al-Ali, Nadjé, and Nicola Pratt. *What Kind of Revolution*. 105.

The main task of the TNA was to write a permanent constitution for the new government. Women's organizations lobbied for fair representation of women on the constitution-drafting committee, but despite this only nine out of 55 members appointed to the committee were women, and six of these women were from the conservative UIA Party. Furthermore, no women were appointed as the head of a subcommittee.⁶¹ When a draft of the constitution was released, women activists were alarmed by the removal of the 25% quota for women in government bodies, which had been included in the Transitional Administrative Law. Ninety women's organizations called for protests, pressuring the committee to add the quota system to the new constitution. This advancement of women's interests, however, was offset by the inclusion of Article 41, which was an underhanded method of abolishing the Personal Status Law and reintroducing Resolution 137.⁶² Article 41 states: "Iraqis are free in their commitment to their personal status according to their religions, sects, beliefs, or choices, and this shall be regulated by law."⁶³ This seems to indicate that there will be room for religious leaders to dictate personal status laws that differ from the secular 1959 laws. U.S. Ambassador to Iraq, Zalmay Khalilzad, showed support for the constitution and interpreted Article 41 as suggesting that "Iraqis would be able to choose between civil and sharia law for their personal status needs."⁶⁴ This is a hopeful interpretation of Article 41, but Khalilzad failed to recognize the possibility that the Article might be interpreted differently in the future, depending on who the current politicians are. Another worrying statement in the new constitution is Article 2, which is very similar to Article 7 in the TAL. According to Article 2, Islam is a "foundation source of legislation" and "no law may be enacted that contradicts the established provisions of Islam."⁶³ This statement was the

⁶¹ Al-Ali, Nadjé, and Nicola Pratt. *What Kind of Revolution*. 110.

⁶² Efrati, Noga. *Women in Iraq*. New York: Columbia U, 2012. 164-169.

⁶³ World Intellectual Property Organization. "Iraqi Constitution." 2012.
http://www.wipo.int/wipolex/en/text.jsp?file_id=230000.

⁶⁴ Efrati, Noga. *Women in Iraq*. 169

result of a compromise between conservative Shiite writers, who wished for Article 2 to declare that Islam is “the source” of legislation, and more moderate writers, who did not want to see the secular laws of the Baath regime overturned.⁶⁵ This seems to contradict with Article 2 Paragraph B, which states: “No law may be enacted that contradicts the principles of democracy.”⁶³ The inclusion of these two statements opens the door for a debate between a democratic versus Islamic interpretation of women’s rights. On October 15, 2005 the new constitution went into effect, despite the ambiguity of Articles 2 and 41.⁶⁶

The government of Iraq has remained divided on ethnic and sectarian lines. These tensions have marginalized other concerns such as rights for women. The sectarian conflict has intensified since February 26, 2006, when Sunni insurgents launched an attack on the Shiite Al-Askari Shrine. The escalating violence between Sunni and Shiite Islamic militant groups has deepened the sectarian divide in the political sphere and drowned out other voices.⁶⁷ Furthermore, despite the quota system in the Iraqi Parliament, women remain underrepresented in Iraqi politics.⁶⁸

Women’s roles in other public spheres are also waning. According to a report from the UN in March 2013, only 14% of women in Iraq are employed in comparison to 73% of men. In the private sector, only 2% of the employees are women.

Women in the new Iraqi state live in a democracy instead of an autocracy, however they do not have more rights than they did under the Baath regime. Saddam Hussein, although guilty of countless human rights abuses, did enact certain legislation favorable to women, such as

⁶⁵ Efrati, Noga. *Women in Iraq*. New York: Columbia U, 2012. 164-169.

⁶⁶ Kirdar. 139.

⁶⁷ Al-Ali, Nadjie, and Nicola Pratt. *What Kind of Revolution*. 118-120

⁶⁸ Al-Sahy, Suadad, and Isabel Coles. "Iraq Women Lament Costs of U.S. Invasion." Reuters. <http://www.reuters.com/article/2013/11/12/us-arab-women-iraq-idUSBRE9AB00J20131112>.

encouraging employment and education in the 1970's. Furthermore, the Personal Status Law under Hussein was progressive by the standards of the region. The diminished role for women in regards to their political representation, legal rights, and employment are the fault of the American occupation. The Bush Administration did not make women's rights a priority during the nation-building mission, because attention was given to achieving a sectarian and ethnic balance in government structures. Furthermore, the power vacuum created by the fall of Hussein, caused an increase in violence against women and opened the door for conservative Islamic politicians to occupy more roles in the government and enact legislation that encroached on women's rights.

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