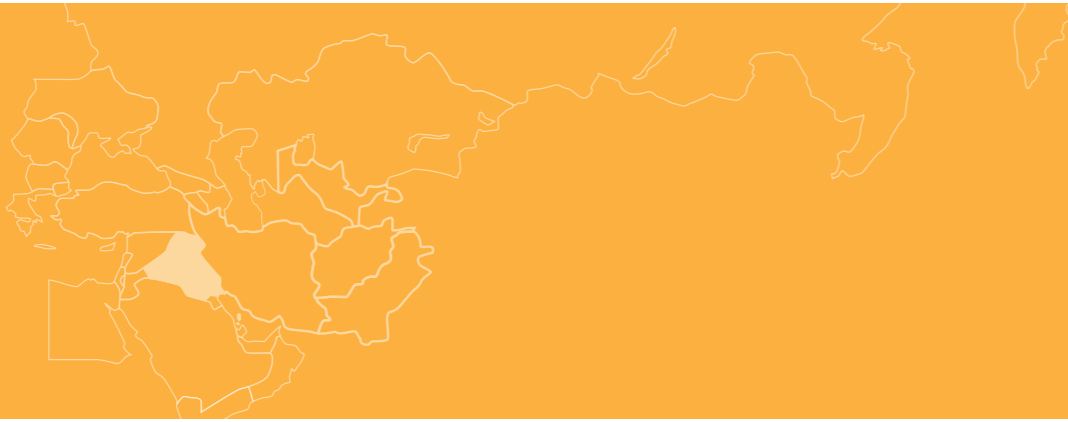


IRAQ



The Iraqi legal system has been in transition since the current conflict began in 2003. Before 1959, personal status issues were not codified. The Personal Status Law No. 188 of 1959 regulated family affairs and all matters relating to marriage, divorce, inheritance, guardianship and custody of children for all Iraqis, regardless of sect. This law has been subjected to amendments over the years, mostly for the benefit of women.

However, article 41 of the Iraqi constitution of 2005 provides that each religion or sect has freedom to manage its affairs and religious institutions, including personal status laws. This would effectively repeal the Personal Status Law and allow each sect to create its own family laws, most likely to the detriment of women's rights. Iraqi women's organisations have been actively campaigning against the approval of this article. Since the constitution is still undergoing a review and amendment process, the Personal Status Law remains in effect.

Equality in the Family is Necessary

- ▶ The culture prevailing in Iraq is male-dominated, with a clear preference for males over females in all aspects. Girls must obey and serve the needs of their fathers and brothers (and eventually husbands), who have the right to curtail their freedom of movement. All girls are expected to marry. If a girl does not marry before the age of 25, she and her family will worry; if she does not marry by the age of 35-40 years, she is considered to be a problem for her family.
- ▶ While girls have traditionally had good access to education, in bad economic times they are kept home from school while their brothers continue to attend school. In the current deteriorating security situation, some families prefer that girls not continue their education because of personal security and the lack of easy, safe transport to and from school buildings. This has caused a high rate of female dropouts from secondary education in Iraq, particularly in rural areas and slums.
- ▶ There are no labour laws that explicitly prohibit women from working. In times of war, Iraq has relied on the efforts of women in the administration of the country, though upon the return of the men from the fighting fronts women were expected to return home and thus lost their jobs and sources of income.
- ▶ Although women are often the breadwinners of the family, the head of the family in the Iraqi culture is the man. Even though the Iraqi personal status law preserves the rights of women in the event of divorce, application of the law is not guaranteed and women are not always protected from societal customs and religious interpretations.
- ▶ One of most significant current challenges is the adoption of article 41 of the new constitution, which could potentially lead to the removal of the Personal Status Law of 1959. The arguments demanding repeal include that the law arose from the previous political regime and should be abolished as part of the regime change; the law violates the provisions of *Shari'ah*; and the law denies private sectarian rights of Iraqi citizens.
- ▶ Women in Iraq have faced difficulties in creating an independent women's voice, despite the fact that 75 of the 275 deputies in the Iraqi Parliament are women.

Equality in the Family is Possible

- ▶ Girls have been enrolled in educational institutions since the establishment of the Iraqi state in 1921. They entered universities in the 1930s and joined political circles in the 1940s, holding decision-making positions in political parties. In 1958, the first female minister in Iraq and the Arab region was appointed (Dr. Nazeha Al-Dulaimi). Education encouraged women to take on important roles within their families and society and showed the problems that occur because of the economic subordination of women.
- ▶ The Personal Status Law includes numerous progressive provisions that protect women, including the right to retain the marital home for three years after divorce; equal marriage age for females and males; and requiring a husband to prove financial ability to maintain an additional wife before he contracts a polygamous marriage.
- ▶ Throughout the past four decades, there has been opposition from conservative religious forces to the Personal Status Law. However, the progressive forces and the Iraqi women's movement have successfully resisted all attempts to repeal the law.
- ▶ Iraqi women's organisations have been campaigning to retain the Personal Status Law and invalidate article 41 of the new Iraqi constitution. These demands have been supported by many international organisations and non-governmental women's associations. The arguments for keeping the law include:
 - The law is based on an advanced reading of Islamic law and was prepared by a committee of experts and scholars based on the doctrinal texts.
 - The law unifies all Iraqis and encourages social cohesion away from the narrow sectarian tendencies that threaten the Iraqi state.
 - The law is a product of the struggle of Iraqi women and the progressive forces that ruled before the Ba'ath party and Saddam Hussein came into power, thus is not a symbol or a remnant of the previous regime.
 - The abolition of the law would result in significant risks to mixed families, for example where one spouse is Shi'ite and the other is Sunni. Such families constitute a large portion of Iraqi society.
 - The abolition of the law would contribute to the deepening of sectarian tendencies and division of communities and would encourage Iraqi society to return to a state of lawlessness.

Source: Report submitted to Musawah in Arabic and English prepared collaboratively by organisations working in various parts of Iraq, including the Women's Leadership Institute in Baghdad and Basra, Al-Yoser organization in Hilla, the Center for the Development of the Capacities of Women in Erbil, the Iraqi Women's Movement, the Rafidain Women Coalition, Al-Amal Association and Baghdad Women's Association.