

PhD Dissertation

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Women's Everyday Reality of Social Insecurity  
The Case of Divorced Women in Iraqi Kurdistan

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von

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## **List of Glossary**

Melle: a religious title is sometimes applied to a Muslim man or woman, educated in often teach in a type of Islamic school known as a madrasah or Hujra

bea wafa: unfaithful

peawakan: male members

Peshmerga: a Kurdish word means the confronters of death and it is the name of Kurdish arm fighter that they called as Kurdish fighter

Sunni : the largest sect of Islam; in Arabic called sunnah

Shia'a: the second sect in Islam

Quran: the Holy book of Islam

Mare/ Mahr: Bride wealth is one of the financial rights given to the wife by her husband.

Mithqal: a measurement unit used as an Islamic measurement, mentioned in the Quran, but is also a known measurement for gold.

Pacha: a Kurdish word that it is synonymous with the Arabic word Niqab.

jin ba jin : woman for a woman

xafat: feeling sad

beawa-jin or beawa-jin: divorced woman

Gewre be picuk: adult woman for a girl

jin be xwen: woman for blood

qadi: judge

al-za'im : The Leader

jezhwane khezane: Family meeting place

## **List of Acronyms**

KRG	Kurdistan region government
GFIW	General Federation of Iraqi Women
UN	United Nations
CVAWF	Offices for Combating Violence against Women and Family
TCCDR	Tribal Criminal and Civil Disputes Regulations
ICCPR	International Covenants on Civil and Political Rights
ICESCR	Economic, Social and Cultural Rights
CEDAW	Convention on the elimination of all forms of discrimination against women
CPA	The Coalition Provisional Authority
IGC	Iraqi government council
TAL	Transitional Administrative Law
KDP	Kurdistan Democratic Party
PUK	Patriotic Union of Kurdistan
KIU	Kurdistan Islamic Union
IMK	Kurdistan Islamic Movement
CDJ	Coalition for Democracy and Justice
FGM	Female genital mutilation
CGT	Constructivist Grounded Theory
ISIS	Islamic State of Iraq and Sham
WOLA	Women's law organization.
GDTVAV	General Directorate for Tracing Violence against Women and Girls

# Chapter One

## The Context of the Research

### 1.0 Introduction and Focus of the Research

People in Iraq<sup>1</sup> undergo varied political, economic and social frustrations. Iraq was destroyed as a result of various wars that took place throughout the history of the country, beginning with the eight-year war against Iran from 1980-1988, Saddam's invasion of Kuwait in August 1990, the economic sanctions that Iraq was subjected to for many years, and the Gulf War of 1991. Specifically the period of Saddam's rule (1980-2003) is known for its rigorous violations against human rights. Furthermore, Saddam carried out intensified and systematic violations of human rights in the Kurdistan region in northern Iraq against the Iraqi Kurds, especially the Anfal<sup>2</sup> and Halabja<sup>3</sup> campaign besides numerous other killing campaigns against the Kurds in their cities. However, these violations did not stop after 2003 when Saddam was arrested. Since 2003/2004, many groups and militias with different political and

---

<sup>1</sup>Iraq is known as a country with people of many different religions, ethnicities, and nations. The Kurds live in the northern part of Iraq and have endured a long struggle for autonomy within Iraq. When we speak about Iraqi Kurdistan's people and history, we are also referring to Iraq because the Iraqi Kurdistan people are part of the Iraqi population and live under the same circumstances.

<sup>2</sup>The al-Anfal Campaign, also known as the Kurdish Genocide, Operation Anfal, or simply Anfal, was a genocidal campaign against the Kurdish people (and other non-Arab populations) in northern Iraq led by the Iraqi regime leader Saddam Hussein and headed by Ali Hassan al-Majid in the final stages of the Iran-Iraq War. For more on this, see: McDowall, David (2004): *A Modern History of the Kurds: Third Edition*. I. B. TAURIS. London. New York. p. 343

<sup>3</sup>Early on the evening of 16 March 1988, the attacks by the Iraqi government forces against the city of Halabja suddenly changed. For two days, the city of some 50 thousand inhabitants, most of them Kurdish civilians, had been subjected to rocket attacks. But then, the attacking aircrafts began to pepper the city with canisters of chemical weapons, including mustard gas and the nerve agents Sarin, Tabun, and VX. That day, some 5,000 people died within minutes. Another 7,000 were injured, crippled, or suffered long-term health problems. The report by Voice of America on 15/03/2012 is available at: (<http://www.voanews.com/policy/editorials/middle-east/HALABJA-AND-THE-FATE-OF-ITS-KILLERS-142768345.html>). For more, see also Stansfield, Gareth & Shareef, Mohammed (2017): *The Kurdish Question Revisited*; Rose, Steven and Baravi, Abraham (1988): *The meaning of Halabja: chemical warfare in Kurdistan* 30(1), pp. 74-77. <http://journals.sagepub.com/author/Rose%2C+Steven>

religious intentions have found ways to be active in Iraq, such as Tanzim al-Qaidat al-Jihad fi Bilad al-Rafidayn,<sup>4</sup> some Baath groups, and the Islamic State in Iraq and Sham (ISIS).<sup>5</sup> These groups are identified by their terrorist attacks and are classified by the United Nations and the Security Council as “terrorist” organizations. To gain power in Iraq, they have organized bomb attacks, killing and kidnapping civilians, working against the government or against those who do not belong to them or who have resisted their ideas; they were also against Kurds and the Kurdistan region.<sup>6</sup>

The most affected are the Kurdish people, who went through all these wars and were targeted not only for their opposition to the governments in Iraq in the past but also because they have been fighting for a long time to achieve autonomy from Iraq. Today, the region of Iraqi Kurdistan is a semi-autonomous<sup>7</sup>, federally recognized political entity located in the northern part of Iraq.<sup>8</sup> This was achieved in the aftermath of the second Gulf War in 1991 when the northern part of Iraq was controlled by the Kurdish people and defined as Iraqi Kurdistan.<sup>9</sup> This region has the right to executive, legislative, and judicial branches, and enjoys the constitutionally protected semi-autonomy to govern its affairs within its regional borders of Iraqi Kurdistan in consultation with the government of Iraq.<sup>10</sup>

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<sup>4</sup>Tanzim Qaidat al-Jihad fi Bilad al-Rafidayn appears as a terrorist organization in the list of Terrorist Organizations in the United States of America. "The Foreign Terrorist Organizations (FTOs) are foreign organizations that are designated by the Secretary of State in accordance with section 219 of the Immigration and Nationality Act (INA), as amended." For more, see: <https://www.state.gov/j/ct/rls/other/des/123085.htm>.

<sup>5</sup>Styszynski, Marcin (2014): ISIS and Al Qaeda: Expanding the Jihadist Discourse, in: Counter Terrorist Trends and Analyses Coverage 6(8), pp. 9-14. Published by: International Centre for Political Violence and Terrorism Research. <https://www.jstor.org/stable/26351276>.

<sup>6</sup>Kumar, Chanchal (2015): Islamic State of Iraq and Syria (ISIS), a Global Threat: International Strategy to Counter the Threat, in: Journal of Social Sciences and Humanities 1(4), pp. 345-353. <http://www.aiscience.org/journal/jssh>

<sup>7</sup>Janik, Maya (2012): The Kurdistan region of Iraq: Achieving stability in a time of transition, in: Austrian Institute for International Affairs-OIIP: Summary of the panel discussion.

<sup>8</sup>Ibrahim, Anwer (2012): Promoting women's participation in decision-making at the local level: A case study of Barzan sub-district in Kurdistan region of Iraq, PhD. Thesis: TU-Dortmund University, p. 3.

<sup>9</sup>Stansfield, Gareth R.V. (2003): Iraqi Kurdistan: Political development and emergent democracy, London, Routledge Curzon, p. 27.

<sup>10</sup>Cravens, Lamar/ Derick, Brinkerhoff (2013): Provincial governance in Iraq: Councils, contestation, and capacity building, in: Research Report. RIT International: USA.

Even though the region is now recognized as an autonomous entity, the consequences of these long periods of wars and resistance are still present. Wars and conflicts have left devastating consequences upon all sectors, mainly the economic sector; however, the social structure and norms are also strongly affected. The whole society is found to be in a process of rapid change, adjusting to this severe political instability. One of these consequences is the growing population of unmarried females, widows and separated/divorced women in Iraq generally and specifically in Iraqi Kurdistan.<sup>11</sup> These women are recognized as the most negatively affected segment of the population. Wars and resistance are not the only reasons behind the rapidly changing social norms; other factors also play a major role. Some examples include the significant role played by institutions working for women's rights, activists focused on amending laws concerning women's issues, and the society itself which is going through a period of moderating and dealing with old social norms in other ways. However, the predominant social and cultural conventions still question women's competence and position women as inferior to men, just like in some other societies in the Middle East.<sup>12</sup> Segregation and social biases that disadvantage women are nothing new in the Middle Eastern societies, including Iraq; they are indeed deeply rooted. The findings of this research show that the wars, political struggles, and resulting economic challenges seem to have recently strengthened these biased conventions, and pose different types of insecurities for women. Most of these insecurities are related to gender in general, in other words they are related i.e. to living as a woman in the society, but single women have it harder than most: Divorced women are in even worse situations and face even more insecurities than other women in the society.

In this research, I initially intended to investigate the situation of single women in Iraqi Kurdistan generally; I wanted to study the three categories of single women: unmarried women, divorced women and widows. The application of grounded theory as a methodology, however, that guided all steps of this research required me to concentrate my research on only one group of women. I thus narrowed the focus of

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<sup>11</sup>Janik, Maya (2012): The Kurdistan region of Iraq: Achieving stability in a time of transition, in: Austrian Institute for International Affairs-OIIP: Summary of the panel discussion.

<sup>12</sup>Moghadam, Valentine M. & Bagheritari, Manilee (2005): Cultures, conventions, and the human rights of women: examining the convention for safeguarding the tangible cultural heritage and the declaration on culture diversity. SHS Papers in Women's Studies/Gender Research No. 1.

the research to concentrate on divorced women only. This decision was also influenced by time and budget constraints. After beginning the research, then, I initially wanted to focus only on the laws concerning women's issues and the rule of law. However, inductive data collection methods like narrative interviews and theoretical sampling produced very rich data that permitted a deeper look into the lives of divorced women, a result that would not have been possible had I only studied the legal aspect.

Looking at the social structure of the Kurdish society, being a divorced, unemployed woman is a difficult position for a woman, as stated in one survey,<sup>13</sup> which was further confirmed in the findings of this research. Women are more respected within the marriage institution as married women, and in relation to their male family members, fathers, husbands, or others. Women without a male breadwinner and protector are subjected to more violence in this society.<sup>14</sup> Divorced women are worse off than young single girls, even though both live under the protection of male family members. Young single girls are to remain virgins and are prepared to get married and be good wives and mothers. It is common in the Kurdish society for women to marry by a certain age; when they are not married by 30 years old then, they experience extreme social insecurities in terms of social pressures and strain until they finally get married.<sup>15</sup> Widows are also in a better position than divorced women, because the former have lost their husbands and are normally sympathized with. In contrast, a divorced woman is judged in society harshly for not succeeding at her marriage, a task for which she had been prepared since she was a young girl. Not only divorced women are blamed for divorce, but also their families who "did not raise them well" to obey their husbands and be good wives. Divorced women have to return to their parental community or find another man to marry, but this choice is also limited because men in this society prefer to marry younger unmarried virgin women. Divorced women usually do not marry again, as this research showed that many

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<sup>13</sup>Iraq's single women suffer in silence (2010): <http://gulfnews.com/news/region/iraq/iraq-s-single-women-suffer-in-silence-1.681157>

<sup>14</sup>Mlodoch, Karin (2012): "We want to be remembered as strong women, not as shepherds": Women Anfal survivors in Kurdistan-Iraq struggling for agency and acknowledgement, in: *Journal of Middle Eastern Women's Studies* 8(1), pp. 63-91, p. 73.

<sup>15</sup>Iraq's single women suffer in silence (2010): <http://gulfnews.com/news/region/iraq/iraq-s-single-women-suffer-in-silence-1.681157>

families refused to allow their daughters to remarry. Thus, divorced women are stigmatized in the Kurdish society and live in very difficult circumstances simply because they are divorced.

This thesis deals with different types of insecurities that divorced women face in Iraqi Kurdistan. Not only because of the insecurities divorce women live in but also the gap in the literature regarding divorced women in Iraqi Kurdistan encouraged me to investigate all forms of insecurities facing divorced women. Many scholars who have written about women in the Middle East and Iraq have tackled other issues, such as the role of laws regarding women in the Middle East,<sup>16</sup> the role of the state,<sup>17</sup> and different forms of violence against women,<sup>18</sup> among other issues, but the situation of divorced women is basically not often subject to empirical investigation.

In order to understand the insecurities divorced women face in both the private and public spheres, I will discuss what is important in the 'everyday lives' of divorced women. The concept of everyday life used in this research is the idea of "real life," the "here and now; "it is a meeting place of the individual and history "<sup>19</sup>.

I also find it significant to study the situation of divorced women because the official data from Iraqi Kurdistan shows that the divorce rate in the region has increased by more than 60 percent since 2012, a worrying trend in a region with predominantly conservative values. "The number of couples that filed for divorce in 2015 was 9,295, while three years earlier only 6,079 marriages had ended in divorce, according to the region's high court of justice, which records marriage and divorce cases in the country."<sup>20</sup> This official data shows that women do not always comply with their male

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<sup>16</sup>Al-Ali, Nadjé (2006): Women's Rights under Attack: Occupation, Constitution and Islamist Extremism, in: WLUML Occasional Papers 15, Published by Women Living Under Muslim Laws, Nottingham, UK.

<sup>17</sup>Rassam, Amal (2005): Political ideology and women in Iraq: Legislation and cultural Constraints, in: Journal of Developing Society 8; Hatem, Mervat F (2005): In the Shadow of the State: Changing Definitions of Arab Women's "Developmental" Citizenship Rights, in: Journal of Middle East Women's Studies 1(3), Indiana University Press, pp. 20-45.

<sup>18</sup>Begikhani/ Gill / Hague (2010): Honour-based violence and honour-based killings in Iraqi Kurdistan and in the Kurdish Diaspora in the UK: Final report. p. 25.

<sup>19</sup>Lykoglanni, Rouli (2008): Tracing Multicultural cities from the perspective of women's everyday lives. European urban and regional studies 15(2), pp. 133-134. Sage publication. p.13.

<sup>20</sup>"Divorce rate in Iraqi Kurdistan grows, official data show." Posted on September 13, 2016, <http://ekurd.net/divorce-iraqi-kurdistan-2016-09-13#.V9fDvW6PkD0.facebook>

guardian. They find a way to deal with their difficult situations in marriage and are trying to go out of these situations.

Generally, the nature of the research dealing with the life stories of divorced women in Iraqi Kurdistan suggested a qualitative constructive methodology. I found the constructive grounded theory (CGT) particularly suitable for the research, mainly because, as Charmaz (whose procedures I follow for applying (CGT) argues; it provides a systematic and flexible way of investigating phenomena. It is systematic due to the steps guiding the data collection and analysis, but is also flexible because it allows for input and interpretations from the researcher.

To conduct the interviews, I selected the province of Sulaimani in Iraqi Kurdistan because it is considered the second-largest city and includes more districts than the other provinces in the Kurdistan region. It is densely populated and provides the opportunity to widen the range of the sample. In Sulaimani, I conducted eighteen interviews with divorced women in the form of live story narrations that I then analyzed following the different steps of the coding process.

## **1.1 Research Aims within the Theoretical Context**

This research investigates divorced women's everyday lives by going through all the stages of life that they pass through, starting from their lives as young girls living with their nuclear or extended families, to being married women living with their husbands and families-in-law and, finally, their lives after divorce. Divorced women commonly either return to their parental home or, in cases where this is not possible, reside in shelters run by the state and non-governmental organizations. Through investigating these phases, questions arise about the position of women in their families and their relationship to men. The answers to these questions provide insight into gender relations and structures in the Kurdish society of Iraqi Kurdistan. This discussion is embedded in the theoretical debate around the sexual contract developed by Pateman<sup>21</sup> to expand the meaning of the original theoretical arguments about social

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<sup>21</sup>Pateman, Carole (1988): *The sexual contract*. USA: Stanford University Press.



contracts developed by Hobbes, Rousseau and Locke.<sup>22</sup> Generally, the main inspiration behind the theory of social contracts is that a social contract is meant to restructure the relationship between “the sovereign or the authority” and the subjects (masses). This definition is also used to understand the functions of some institutions, like the state. Social contracts are intended to organize people’s lives and make their situations better than before entering into the contract. However, according to Pateman, the sexual contract guarantees the freedom of men and the subordination of women to them. In her words, “[t]he social contract was a story of freedom while the sexual contract is a story of subjection. The original contract constitutes men’s freedom and women’s subjection. Freedom in civil society is not universal but it is a masculine attribute which depends on patriarchal right.”<sup>23</sup> She points out that in the original contract that created a new civil society and a new form of political rights, half of the contract is missing and the old social contract theory did not address the missing half.

This research is also aimed at uncovering forms of social insecurities that divorced women experience as a result of living in a patriarchal social system like Iraqi Kurdistan and identifying the difficulties women face due to their subjection and subordination to men. One of the main questions has to do with the forms of insecurities divorced women face in everyday life in each stage of their lives and especially after divorce. For instance, by exploring insecurities divorced women experience during marriage, such as beatings, control of their movements or behavior by their husbands, sexual abuse and living with their families–in-law, among others, I was able to understand the reasons why a woman would ask for divorce even though her life after the divorce would not be any easier. I also inquired into the insecurities they face after divorce, as well, which included analyzing the perception of divorced women as “bad, not virgin women” within their families and society, and sought to identify what parts of their daily lives are negatively affected by these insecurities.

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<sup>22</sup>Frimpong, Augustine Adu; Jones, Chanika R. and Esedo (2018): The theoretical perspective and strands of the social contract as espoused in the works of Hobbes, Locke, and Rousseau: its effects on the contemporary society. *Public Policy and Administration Research* 8(3), p. 65; Laskar, Manzoor Elahi (2014): Summary of Social Contract Theory by Hobbes, Locke and Rousseau in *SSRN Electronic Journal* · April 2013. DOI: 10.2139/ssrn.2410525, p. 1.

<sup>23</sup>Pateman, Carole (1988): *The sexual contract*, p. 1.

In general, through the research I found that the lives of divorced women are extremely difficult; they suffer from restrictions and different forms of violence and oppression. Patterns of social behavior are exercised which negatively affect women, such as specifying what is called an “acceptable marriage” that prioritizes the opinion of the family over that of the woman who is to be married. Other examples of the violence that women face in Kurdish society include early marriage, forced marriage, exchanging one woman for another. Honor killing<sup>24</sup> is another important form of violence experienced in the Kurdish society, also used as a threat to control the behavior of women by men. Harassment from men in their families as well as outside the family is revealed to be wide-spread.

In this research, I also question sources of insecurities and the roles played by different institutions: social, economic and political institutions, from the family to state institutions.

I found out that different institutions are involved in protecting women and improving their situations, yet some of these have failed to realize positive results. Institutions like the family, for instance, which function from good intentions and ideally aim to protect women, can still also be a source of different forms of insecurities. The divorced women I interviewed, their statements telling about the two contradictory roles of family members: from “My mother always stands beside me and helps me” to “My brothers are always insulting me and calling me bad names which has had a very bad effect on me.” The roles and questionable functions of other institutions like the shelter also came up in the interviews.

Other institutions such as laws are set to protect people and organize their lives. Reasons for incorrectly functioning laws and hindrances to the rule of law are very significant in this research. So, are the laws themselves set to protect women and improve their situation in society? Which laws are more influential in the lives of women? Are these formal laws and constitutions, or social norms and traditions? And, why do formal laws and constitutions and institutions that apply these laws, such as courts and the police, not function as they are supposed to? The life stories of

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<sup>24</sup>Begikhani, N., Gill, A., Hague, G. (2010): Honour-based violence and honour-based killings in Iraqi Kurdistan and in the Kurdish Diaspora in the UK: Final report.

divorced women describing their situations before, during and after divorce help to explore the role of laws in this research.

Identifying the coping strategies divorced women use when experiencing all these forms of insecurities is the next aim of this research. How do divorced women deal with and cope with these insecurities? What are the consequences of experiencing such insecurities, and what positive accomplishments do these women achieve?

The women I interviewed in this research mentioned different coping strategies they used, including negotiating with their families to accept them and, in some cases, to accept their children as well. Some of them tried to break out the economic strain in their families by getting jobs; others just obeyed their families' wishes in order to be accepted by them. In cases where women did not submit to the desires of their families, such as restrictions to their movement or insults, they faced extreme difficulties that led them to turn to the formal authorities and, in some cases of extreme danger, such as death threats, they had to be separated from their families and live in shelters. In these cases, women showed resistance and objected to the subordination to their families, just as they rejected the subordination to their husbands, and that was the main cause of the divorce. The women often used phrases like "trying to convince my family," "discussing with my brother," "obeying rules," "they set down rules for me, some of which I accepted and others not," "I have to find compromise," and "I avoided them"; these phrases place emphasis on the main coping strategies women employed; they also refer to a sense of women's agency.

Different theories could be used to explain these coping strategies, and agency such as bargaining with patriarchy. Kandiyoti reasons that women living under certain restraints struggle to find ways and strategies to enhance their situations and thus they engage in negotiations and bargaining which reconstruct the form of patriarchy they are living in. Deniz Kandiyoti<sup>25</sup> focuses on societies in the Middle East and North Africa, where such concepts as honor are linked to the behavior of women. Bina Agarwal<sup>26</sup> completes this theoretical discussion by investigating different types of intra- and extra-household dynamics within the framework of bargaining and gender relations.

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<sup>25</sup>Kandiyoti, Deniz (1988): Bargaining with Patriarchy, *Gender and Society* 2(3).

<sup>26</sup>Agarwal. Bina (1997): Bargaining and gender relations: Within and beyond the household, in: *Journal of Feminist Economics* 3(1).

Reading the work of Saba Mahmood<sup>27</sup> on Muslim women's agency also suggests relating the findings of this research about coping strategies to women's agency.

Women's coping strategies shows a sense of women agency

Agency also explains the behavior of women contacting formal state institutions in cases of violence, like the police or the offices of CVAWF. However, these issues pose other set of questions, such as whether the amendments or reforms to the laws expand women's rights and whether they contribute to women's autonomy within their families or communities. Further, what are the factors that might affect this process positively or negatively? Why are these laws and amendments not actively applied to protect women?

There is another important question in this research as well: Is agency only about resistance? Divorced women in this study employed different strategies, including negotiation, compromise, escape, avoidance and obedience, which western feminists might view simply as a means or continuation of female oppression and as contrary to female autonomy and liberation. But, in contrast to what western feminist view, women use these strategies to make space for themselves within the system, which are also show different forms of women agency. This strengthens the suggestion by Tala Asad and Saba Mahmood to keep the meaning of agency open to include other means than resistance or, as explained by Sertac Sehlkoglul, "... find other ways to escape from patriarchal ideologies."<sup>28</sup>

Building on what I mentioned above, my research questions are:

**Insecurities:** What are the insecurities that divorced women experience in everyday life? What is the role of family in woman's life? What is the position of divorced women in the family and consequently in the society? What are the challenges divorced women experience and how is the perception of divorced women formed in the Kurdish society? How is genders relation structured in Kurdish society?

**Coping with insecurities:** How do divorced women deal with and cope with these insecurities? What are their coping strategies? In addition, the question of how divorced women live with and feel toward these insecurities is at the heart of the discussion in this research.

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<sup>27</sup>Mahmood, Saba (2006): Feminist theory, agency, and the Liberatory subject: some reflections on the Islamic revival in Egypt, *Temenos* 42(1).

<sup>28</sup>Sehlkoglul, Sertac (2017): Revisited: Muslim Women's Agency and Feminist Anthropology of the Middle East, in: *Cont Islam*. 12(73-92), p. 82, 83.

**Other institutions:** Despite the focus on families (nuclear and extended families) as units of the society, it is obvious that they do not exist and function in an isolated manner; other institutions are also significant, since they constitute the other parts of society. These institutions include the political structures, economic institutions and the legal and legislative institutions. The rule of law is one of the focuses of this research. The question here is whether the laws grant women their rights and, if not, why they are not implemented in a way that provides women with security.

Other set of questions regarding other institutions such as police stations, office of compacting violence against women, shelters these set of questions include: How the state institutions the shelters the offices of CVAWF & also NGOs function to protect women? Are they enhancing everyday situations of women?

## **1.2 The Structure of the Research**

I divided my research into three parts, and it covers nine chapters, which I explain in the following:

Chapter One: As viewed formerly, contain the introduction and it views a general background about the research.

### **Part 1: The Theoretical Debate and the Background of the Research**

Part one covers three chapters, starting from chapter two and ending with chapter four which all of look at the theoretical considerations of the research. Hence, what explained and discussed in the chapters three and four are describing a general background about the situation of women and the role of law; what are constraints or supports the women.

Chapter Two: This chapter explores the theoretical framework of the research, the main theoretical perspective and backgrounds are clarified in this chapters, starting with sexual contract<sup>29</sup> that is used to explain the contract and the gender relation, and also in this chapter the concepts of agency, and bargaining with Patriarchy are discussed, as well as Suad Joseph's<sup>30</sup>, Noga Eftrati<sup>31</sup>, Judith E. Tucker<sup>32</sup>, and many

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<sup>29</sup>Pateman, Carole (1988): The sexual contract. USA: Stanford University Press, p.2, p.25.

<sup>30</sup>Joseph, Suad (1994): "Gender and family in the Arab world" MERIP women in the middle east images and reality

other scholars' works on laws and families and issues concerning women in the Middle Eastern countries are integrated into the theoretical context of the research. These theories emerged a result of analyzing the data and the exploring of different categories.

Chapter Three: This chapter displays the historical background and demonstrates the changes in the political systems generally in Iraq and Iraqi Kurdistan, with a concentration on legislation and laws concerning women. Though, this chapter tries to trace the history and review the historical path of events that have a significant impact on the living situations of women today, especially on the divorced women.

Chapter Four: In this chapter I discuss the legal framework of women's and its effect on the situations of women, also the most recent reforms and the new provisions and laws regarding the situation of women and divorce women specifically are viewed and discussed. The chapter presents the main differences between the constitution of central Iraq and the constitution of Iraqi Kurdistan, focusing on laws addressing women with special focus on divorced women.

## **Part 2: Methodology**

Chapter Five: This chapter is the only chapter of part 2 and explains exhaustively the methodology that I used in this dissertation. I started by introducing the rationale behind using qualitative methods and discussing specifically why they are used in this research.

I chose the constructive ground theory (CGT) as the main theoretical bases of the qualitative methodology of this research, and different reasons for using it are presented in the chapter. This chapter also briefly presents the theoretical roots and connections of the CGT, as well as the procedures for data collection and data analysis. The MAXQDA computer program was used for the coding process and to

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<sup>31</sup>Efrati, Noga (2012): *Women in Iraq: Past meets present*. Columbia University Press; Doreen, Ingrams (1983), *the awakened: Women in Iraq*. London: Third World Centre for Research and Publishing.

<sup>32</sup>Tucker, Judith E. (1993): *The Arab family in history "Otherness" and the study of the family*. George town University. Center for Contemporary Arab Studies; Joseph, Suad (1994): *Gender and family in Arab world*, in: *Women in the Middle East*, pp.195-201; Coleman, Isobeal (2006): *Women Islam and the new Iraq*, in: *Foreign Affairs* 85(1), pp.24-36; Malek, Abisaab (2009): *Arab women and work: the interrelation between orientalism and historiography*, in: *Journal of Women of the Middle East and the Islamic World* 7, pp.164-198.

analyze the qualitative data, at the end of the chapter, details of the research area and sampling techniques are presented.

### **Part 3: Empirical Findings**

This part is encompassing four chapters, which discuss the results of the field work interviews. In these chapters the categories resulted from open coding and focus coding and the constant comparison of the categories are viewed and discussed.

Chapter Six: deals with divorced women everyday life, though the phases in the divorced women life, marriage divorce and the challenges that women experience are explained depending on the interviews and the categories that emerged from it.

Chapter Seven: The family roles in women life before the marriage and after getting divorce, also the relation between father, mother, sisters and brothers are in focus. These categories that relate to the family roles in women life emerged through analyzing and the open coding process. In this chapter the gender relation in the family investigated, through this chapter the family role in divorced women life and the family roles before the divorced also in focus.

Chapter Eight: discuss the role of the formal institution in the divorced women life, thus the role of law and the legal institutions in women life are viewed and whether they offer the security and protection for women or not, are explained according to the categories that emerged from the interviews. So the procedure of divorced and how the laws support or hinder women are highlighted. In addition the role of office of combating violence against women and family and the shelter role are discussed depending on the categories that developed from analyzing the interviews.

Chapter Nine: In this chapter the theory that grounded in the data are discussed and it also view the findings of this research.

## Chapter Two

### Theoretical Framework on Gender, Family and Law

#### 2.0 Introduction

This chapter constitutes the theoretical context and framework of the research. Theories and theoretical arguments discussed in this chapter are selected and seemed relevant to explore and explain statements made by women who are interviewed in this research.

The chapter commences with a discussion on the concept of social contract as general which frames the meaning and dimensions of the concept starting from the ideas and theoretical arguments by the scholars who developed the concept such as Hobbes going through those of Rousseau and end with the theoretical arguments of Locke on the concept of social contract. Generally the social contract is meant to restructure the relationship between “the sovereign or the authority” and the subjects (masses) such meaning is also used to understand the functions of some institutions like the state. Not only at that formal level but also at the level of society and individuals the concept of contract is employed to analyze relationships in such institutions as family or marriage. In this context emerged the idea of sexual contract developed by Pateman. From agreements and disagreements between Pateman’s group of thoughts on the subject and those of the other scholars and the original idea of social contract emerged the definition of sexual contract that seemed relevant to the life stories narrated by women interviewed in this research.

The idea of sexual contracts is found to be related to the empirical outputs of this research for the reason that it explained the situations of women in both public spheres as well as private spheres. However, the discussion on sexual contracts of marriage and divorce seemed more relevant to this research. Pateman main input to the theory of sexual contracts is the analysis of the ‘structural subordination’ of certain individuals mainly women with less power to others with more power mainly men. Such discussions lead to include concepts of fraternal patriarchy and women subordination and the analysis of marriage as an institutional contract; Pateman clearly pointed out to the position of women in this contract.



The empirical outputs of this research suggest also including another theory that found to be relevant which is bargaining with patriarchy. Kandiyoti who developed the theory of bargaining with patriarchy reasons that women living under certain restraints struggle to find way and strategies to enhance their situations and thus they engage in bargaining which reconstruct the form of patriarchy they are living in. This theory goes beyond this and tackles such concepts of gender relations focusing on the societies in the Middle East and North Africa. In addition to including such concepts related to these societies such as honor. Another scholar contributed to this discussion is Agarwal who investigated different types of intra- and extra-household dynamics in the framework of bargaining and gender relations.

Taking into consideration the idea that women bargain and negotiate their position employing varied strategies in such a patriarchal society as in Iraq and Iraqi Kurdistan suggests to include women agency as one of the theories that used in this research to explain women everyday live. Since different scholars tried to understand women agency in deferent ways, I intended to start the discussion in this chapter with a review of broader definitions of the concept and later to focus on rationalizing the concept and relate it to the empirical outputs of the research. In general women agency in this research is dealt with as to be open to include different strategies women employed to deal with restrains. Thus the meaning of women agency in this research includes both strategies of resisting or fighting against male power on the one hand and compromising or even obey the male relatives, and the normative system in the societies emerged in the work of such scholars like Mahmood who criticize the Western and feminist view of women agency as resistance on the other hand.

Women interviewed in this research revealed the significant role played by their families in their life. This suggested including theoretical arguments made by scholars which could explain empirical outputs. Thus the last part of the chapter is to explain gender relations, importance of families and the rule of law in the Middle East. Arguments and statements of Joseph who worked to produce a general framework to understand patterns of gender and family dynamics are to be presented. Laws which are formed and reformed to support women and the rule of law in the Middle East are investigated by scholars Agarwal, Charrad and Moghadam and presented at the end of this chapter.

## 2.1 Carole Pateman and the Sexual Contract

### 2.1.1 The Concept of Social - Sexual Contracts

Going back to the history of the social contract, Thomas Hobbes was the first writer in the Western world to publish on the theory of social contracts in 1651, stating that human beings are born with the need for security and order as a natural desire. To avoid the chaotic conditions of the state of nature people preferred to engage in contracts that organized their lives.<sup>33</sup> Hobbes believed that:

“man has a natural desire for security and order, which included the order to secure self-protection and self-preservation, and that to avoid misery and pain, man should have the desire to enter into a contract. To Hobbes, the idea of self-protection and self-preservation are inherent in man's nature, and that in order for humans to achieve it, they involuntarily surrendered all their rights and freedoms to some authority by this contract in order to command obedience. Due to the contract, the mightiest authority is to protect and preserve their lives and property.”<sup>34</sup>

Hobbes assumed that if the subjects surrendered their rights to an external sovereign authority, the latter would be obligated to rule using the natural law that works for the preservation of a peaceful life and prosperity of the subjects.<sup>35</sup>

In stark contrast to Hobbes, Jean Jacques Rousseau perceived the state of nature as fair and peaceful instead of harsh and chaotic. Rousseau associated the need for a contract with the invention of the concept of property. Property was the reason to develop social contracts "The invention of property constituted humanity's fall from grace out of the state of nature. For this purpose, they surrendered their rights not to a

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<sup>33</sup>Shatar, Amer N. (2016): On the hypothetical state of nature of Hobbes and Kant; same premises, different conclusions, in: European Scientific Journal August 12(23).  
URL:<http://dx.doi.org/10.19044/esj.2016.v12n23p209>.

<sup>34</sup>Frimpong, Augustine Adu; Jones, Chanika R. and Esedo (2018): The theoretical perspective and strands of the social contract as espoused in the works of Hobbes, Locke, and Rousseau: it's effects on the contemporary society. Public Policy and Administration Research 8(3), p. 65; Laskar, Manzoor Elahi (2014): Summary of Social Contract Theory by Hobbes, Locke and Rousseau in SSRN Electronic Journal, p. 1.

<sup>35</sup>Frimpong, Augustine Adu; Jones, Chanika R. and Esedo (2018): The theoretical perspective and strands of the social contract as espoused in the works of Hobbes, Locke, and Rousseau: it's effects on the contemporary society, p. 65.

single individual but, instead, to the community as a whole, which Rousseau termed as the general will<sup>36</sup> According to Rousseau's view, contracts were needed to organize people's lives mainly in order to revise inequalities that might occur due to property possession. Rousseau stated that the social contract was an emerging kind of social organization in which the state served as "the sovereign or the authority." The state was given the authority to ensure and guarantee rights, liberties and equality, an authority handed over by the people of their own choice and desire.<sup>37</sup> The core idea of Rousseau's theory of social contracts was that the state and law was the outcome of the general will of the people to protect their lives and properties. Rousseau, cited in Pateman, demonstrated that through contract, individuals follow "the state and civil law, freedom becomes obedience and, in exchange, protection is provided."<sup>38</sup> He further extrapolated that "[t]he contracts of everyday life today also mirror the original contract, but now they involve an exchange of obedience for protection, they create a civil mastery and civil subordination."<sup>39</sup> Both Hobbes and Rousseau, in addition to other writers, were interested in analyzing human behavior in the context of political philosophy to explain the emergence of states and contract.

John Locke came to add more to the theory of social contracts by relying on Hobbes for his political viewpoint, which examined the evolution of an individualist civil government. The basic idea of the individualist civil government was

"that rational individuals would compete for private property in a context of equal laws. A limited, democratic government would enforce those laws and protect private contracts, the basis for market exchange. Government would otherwise remain minimal and passive, with no dominant power to enforce sacred rules, tradition, or morality. Social order would be based on market relations, and this would be a civil, not sacred, social order. No sacred tradition or morality would be necessary because the market laws of supply

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<sup>36</sup>Frimpong, Augustine Adu; Jones, Chanika R. and Esedo (2018): The theoretical perspective and strands of the social contract as espoused in the works of Hobbes, Locke, and Rousseau: its effects on the contemporary society, p. 66.

<sup>37</sup>Laskar, Manzoor Elahi (2014): Summary of Social Contract Theory by Hobbes, Locke and Rousseau in SSRN Electronic Journal , p. 4.

<sup>38</sup>Pateman, Carole (1988): The sexual contract. USA: Stanford University Press, p. 7.

<sup>39</sup>Pateman, Carole (1988): The sexual contract. USA: Stanford University Press, p. 7.

and demand would create a good society, a society of freedom and equality.”<sup>40</sup>

The concept of contracts developed over time to be applied to explain other types of contracts, for instance the contracts that organize social relations between individuals in a society and not only between a government and its citizens. Social relations were understood to take a contractual form in order to provide protection within social institutions such as family or marriage.<sup>41</sup>

The main argument here is that the same idea of social contracts that organize the relationship between “the sovereign or the authority” and the subjects (masses) is also observed to regulate social contracts in such institutions as the family or marriage. Men are seen as the “the sovereign or the authority” and women as subjects. This type of contract is found as relevant for the thesis in explaining the situations of women in general and divorced women in particular, and can be used to explain theoretically the empirical findings of this research in the form of sexual contracts as explained by Carole Pateman.

A comparison between Pateman’s work in political theory and democracy and the main theorists in social contract theory reveals the main similarity between both lines of work, summarized in Jean Jacques Rousseau's famous theoretical argument that "Man is free, but everywhere in chains."<sup>42</sup> This statement suggests that in order to have true freedom and for the freedom to be recognized in contract, certain limits on individual freedoms must be accepted, so there is no freedom without being subjected to conditions in contrast.<sup>43</sup> According to O'Neill et al. (2008), this agrees with the work of Pateman, who understood the term "man" to be used in "its literal, gender-specific sense. Social contract theory presupposes not some generic human being, but

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<sup>40</sup>Mouritz, Thomas (2010): Comparing the social contracts of Hobbes and Locke, *The Western Australian Jurist* 1, p. 123.

<sup>41</sup>Bromley, David G. and Busching, Bruce C. (1988): understanding the structure of contractual and covenantal social relations: Implications for the Sociology of Religion. *Sociological Analysis* 49, pp. 15S - 32S. Oxford University. URL: <https://www.jstor.org/stable/pdf/3711141.pdf>.

<sup>42</sup>O'Neill Daniel I., Shanley Mary Lyndon, and Young Iris Marion (eds.), (2008): *Illusion of Consent: Engaging Carole Pateman*, Penn State UP; Woolfson, Tony (1980): *Jean- Jacques and the tension between nature and society*. McMaster

<sup>43</sup>O'Neill Daniel I., Shanley Mary Lyndon, and Young Iris Marion (eds.), (2008): *Illusion of Consent: Engaging Carole Pateman*; Woolfson, Tony (1980): *Jean- Jacques and the tension between nature and society*. McMaster University, PhD. Thesis, p.148.

only those persons in whom is invested the capacity to bear the right of property in their own persons."<sup>44</sup> It is noticed also by O'Neill et al. (2008) that this argument runs contrary to John Locke's assumption that the idea of the individual functioned neutrally, those individuals elected by conventional social contracts without taking into consideration gender and race differences. However, even if individuals with authority intended to function in neutral and universal spaces, they were still guided by gender and race differences in a biased way. According to O'Neill et al. (2008), "they tended to be those who constituted the traditional classes of the landed gentry, namely the propertied classes: wealthy, white, male landholders."<sup>45</sup>

The main focus of Pateman's work compared to other writers in social contract theory is what is called the 'structural subordination' of certain individuals with less power to others with more power. As explained by O'Neill et al. (2008), in structural subordination "the subordination of particular classes or groups of people (the poor, women, and slaves) is structurally built into the social contract."<sup>46</sup>

In her work, Pateman stresses that the sexual contract guarantees the freedom of men and the subordination of women to them. The societies that condone the structural subordination of women are described by many writers as patriarchal societies. In her words "The social contract was a story of freedom while the sexual contract is a story of subjection. The original contract constitutes men's freedom and women's subjection. Freedom in civil society is not universal but it is a masculine attribute which depends on patriarchal right."<sup>47</sup> She points out that in the original contract which created a new civil society and a new form of political rights, half of the contract was missing, and the old social contract theory did not address the missing half. The original contract was an agreement to obtain freedom, so that people could replace the insecurities of natural freedom for an equal civil freedom offered and maintained by the state. The contract (agreement) provided equality to all who entered into the contract, thus in civil society freedom should have been universal. In her

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<sup>44</sup>O'Neill Daniel I., Shanley Mary Lyndon, and Young Iris Marion (eds.), (2008): *Illusion of Consent: Engaging Carole Pateman*

<sup>45</sup>O'Neill Daniel I., Shanley Mary Lyndon, and Young Iris Marion (eds.), (2008): *Illusion of Consent: Engaging Carole Pateman*

<sup>46</sup>O'Neill Daniel I., Shanley Mary Lyndon, and Young Iris Marion (eds.), (2008): *Illusion of Consent: Engaging Carole Pateman*

<sup>47</sup>Pateman, Carole (1988): *The sexual contract*, p. 1.

discussion, Pateman stresses that in modern society there should be no place for patriarchy, and that the civil society created by the original contract was supposed to be “anti-patriarchal or post-patriarchal.”<sup>48</sup> Yet, patriarchy and perhaps new forms of it can be still seen in modern times. Pateman declares that the modern political story was brought into being by social contract theory. “The idea of original contract theory is that free social relations take contractual form more than any time since seventeenth and eighteenth”<sup>49</sup> The classical writers in social contract theory started their story with the original contract, but it must be acknowledged that the original contract is a sexual-social contract, in which the sexual part has been marginalized.<sup>50</sup>

Pateman indicates that the differences are not only in between the sexes in the political story, but also the “structure of our society and our everyday lives [have] incorporated the patriarchal conception of sexual difference.”<sup>51</sup> Sophie Watson in a review of Pateman’s work agrees with the view that the fraternal patriarchy was created when the son defeated the father and built a civil society and civil freedoms instead of remaining under the father’s rule. In so doing, the son refused the father’s power “not only to gain liberty but also to secure women for themselves. Women in modern society are subordinated to men as men or more centrally to men as fraternity.”<sup>52</sup>

Pateman’s main argument also reveals that the original contract is sexual for two reasons: first, because the political rights of men were recognized above women, and second, this gave men the right to dominate women’s bodies and so the sexual contract formed the modern patriarchy by creating “the law of male sex-rights.”<sup>53</sup> Pateman views the original contract as the creator of a new civil society in the form of a patriarchal civil society, and a new form of political rights that had their basis in sexual rights. Pateman also differentiates between the public and private spheres, linking them to patriarchal civil society whereby attention is given only to the public sphere while the private one is ignored. She explains:

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<sup>48</sup>Pateman, Carole (1988): *The sexual contract*, p. 2.

<sup>49</sup>Pateman, Carole (1988): *The sexual contract*, p. 2.

<sup>50</sup>Pateman, Carole (1988): *The sexual contract*, p. 2.

<sup>51</sup> Pateman, Carole (1988):*The sexual contract*, p. 6.

<sup>52</sup>Watson, Sophie (1989): Review: *The Sexual Contract* by Carole Pateman, in: *Feminist Review* No. 33, Palgrave Macmillan Journals, p. 106.

<sup>53</sup>Pateman, Carole (1988): *The sexual contract*, p. 2.

“Patriarchal civil society is divided into two spheres, but attention is directed to one sphere only. The story of the social contract is treated as an account of the creation of the public sphere of civil freedom. The other, private, sphere is not seen as politically relevant. Marriage and the marriage contract are, therefore, also deemed politically irrelevant. To ignore the marriage contract is to ignore half of the original contract.”<sup>54</sup>

Pateman is unconvinced by the assumption that the social contract and the sexual contract are separate. The main reason for this is that the sexual contract is related to the private sphere and is not found in the public sphere, whereas in contrast the patriarchy increased in the public sphere that was considered civil society.

Pateman believes however, that the two spheres, public and private, cannot be understood separately and they are in fact indivisible; this means that the original contract can be misunderstood without the other half of the story.<sup>55</sup> The private is relegated to women and considered irrelevant to public life, and the latter is then constructed as an exclusively male domain. Women exist as belonging to and remaining in a natural, pre-political world, whereas men enter civil society. Thus, as Pateman points out, “[c]ivil freedom is not universal. Civil freedom is a masculine attribute and depends upon patriarchal right.”<sup>56</sup> The social contract, then, is an exclusively male enterprise and transforms patriarchy into its modern form, which is “fraternal, contractual, and structures capitalist civil society.”<sup>57</sup>

Pateman reasons that, considering that in nature “men are born free,” then they are free in the natural condition. It is thus assumed further that men are equal and individual, but this assumption brings up a very important question: “[H]ow can the government of one man by another ever be legitimate; how can political right exist?”<sup>58</sup> Pateman suggests that only one answer could be possible, which was that the relationships are to be organized and managed by agreement, and “contract is seen as the paradigm of free agreement.”<sup>59</sup> However, Pateman stresses the fact that women were excluded from the original contract because women could not be individuals

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<sup>54</sup>Pateman, Carole (1988): *The sexual contract*, p. 3.

<sup>55</sup>Pateman, Carole (1988): *The sexual contract*, p. 4.

<sup>56</sup>Pateman, Carole (1988): *The sexual contract*, p. 2.

<sup>57</sup>Pateman, Carole (1988): *The sexual contract*, p. 25.

<sup>58</sup>Pateman, Carole (1988): *The sexual contract*, p. 6.

<sup>59</sup>Pateman, Carole (1988): *The sexual contract*, p. 6.

because they were not granted the ability of being individual naturally according to the classical theorists except Hobbes. According to Pateman the classical theorists pointed that

“Women are not party to the original contract through which men transform their natural freedom into the security of civil freedom. Women are the subject of the contract. The sexual contract is the vehicle through which men transform their natural right over women into the security of civil patriarchal right”.<sup>60</sup>

Thus classical theories in Pateman’s point of view considered sexual difference also as political difference; and sexual difference is the variation that differentiates between freedom and subjection.

Pateman distinguishes herself from other theorists of social contract theory in that she is not concerned with the contract as guided by law, but instead focuses on the contract as a “principle of social association and one of the most important means of creating social relationship such as the relation between husband and wife or capitalist and worker.”<sup>61</sup> This is the definition of contracts that is used in this dissertation. Pateman also distances her ideas from the original definition of property in the original social contract, when property was defined in its material sense such as goods, land and capital, and interest. Her theoretical position is to consider property as that which “individuals are held to own in their persons.”<sup>62</sup>

Four types of contracts are used by Pateman to explain the domination of men; these are the employment contract, marriage, the contract between prostitute and client and the slave contract. These contracts all support men’s rights and point to the subordination of women. For this research marriage is considered important to the theory construction because it is used to explain the concept of patriarchy and the subordination of women. A comprehensive analysis of the other three contracts (Slave, wage and prostitution) is seen as beyond the scope of the research, except when the discussion suggests interconnected points to marriage and patriarchy.

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<sup>60</sup>Pateman, Carole (1988): The sexual contract, p. 6.

<sup>61</sup>Pateman, Carole (1988): The sexual contract, p. 5.

<sup>62</sup>Pateman, Carole (1988): The sexual contract, p. 5.



### 2.1.2 Theoretical Analysis of Marriage as a Sexual Contract

Despite women not being considered a part of the original contract, the classic social contract theorists emphasized that marriage and the marriage contract were part of the natural condition. Pateman points out to contradictions in the original contract theorists' ideas about the contract. On the one hand the theory of the original contract referred to women as beings not able to be individuals or to be free and equal to men but on the other hand they were supposed to be part of the marriage contract. Pateman comes to ask the question: "Why, moreover, do all the classic theorists including (Hobbes) insist that, in civil society, women not only can but must enter into the marriage contract?"<sup>63</sup> According to Pateman, these differences between sexes are built into the structure of our society and our everyday lives.

Pateman also argues that to understand the modern patriarchy, it is important to understand that the world in which the classic theorists started to tell the story of the contract is different from the world today. At that time, before industrialization, economic production was conducted in the households, where all servants, apprentices and slaves, as well as the master and his wife and children, were all involved.<sup>64</sup> It is obvious that the old contract was a contract between a master and his subordinates, including his wife. Pateman pointed out that becoming a wife meant becoming a servant, because the wife enters into the contract as a servant: "[S]he is someone who worked for her husband." Pateman here ask the question, "What kind of labor is a (house) wife?"<sup>65</sup>

Since then so many things have changed and women have gained more rights; however, some aspects of subordination still remain today. Women in some societies are still not seen as individuals, but only seen within the domain of their relationship to a man, husbands, fathers, brothers or others.

Pateman goes on to analyze marriage as an institutional contract, referring to the fact that women have to consent to marriage contract in order to change their status from unmarried to married woman just like any other free individual who can enter into a contract and who indeed must consent to be an individual in the civil society and also in order the new state to be legitimate. However, women cannot contract into

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<sup>63</sup>Pateman, Carole (1988): *The sexual contract*, p. 7.

<sup>64</sup>Pateman, Carole (1988): *The sexual contract*, p. 116.

<sup>65</sup>Pateman, Carole (1988): *The sexual contract*, p. 116.

marriage as individuals, but only as women. Here, Pateman locates the other, hidden, side of the contract story: the sexual contract.<sup>66</sup> From the beginning, marriage was considered a contract in which “equal parties enter the contract to lead equal life with equal restraints and privileges on either side.”<sup>67</sup> However, feminists later contested that instead this marriage is a contract in which only one party, the husband, dominates the other party, the wife. One of the deficiencies of marriage as a contract as stated by feminists is that one party, the wife, is not allowed to set the terms of the contract themselves. Thus, it hardly seems possible that women, who are not allowed to enter into the civil social classical contract, who lack an existence as a civil individual, could enter a marriage contract. However, for some theorists who were viewed by Pateman, the position was that in order for women to not be subordinated by men, they would have to participate equally in the civil public life. It is only when children are cared by both women might men and women escape their subjection to men. Pateman argues, however, that, considering the social customs and law in some societies, women are not even permitted the chance to earn their own living and so marriage for many of them is something they look to in order to have any kind of decent life.<sup>68</sup> To explain more it is also argued by Mill that being “wives is the only position that their upbringing, lack of education and training, and social and legal pressures realistically leave open to them.”<sup>69</sup> In other words, women are obliged by their situations to enter into the marriage contract.

Quoting Thompson,<sup>70</sup> Pateman states that within the marriage contract men are supposed to allow their wives equal happiness, but the enjoyment of this happiness is connected to the desires of men. Thus, husbands can convert the marital home into a situation where wives should only enjoy their happiness with their husbands, children and the whole household.<sup>71</sup>

As indicated in Pateman’s theoretical analysis of marriage it is clear that women do not enter into marriage as equal partners and, they lack the standing of ownership

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<sup>66</sup> Pateman, Carole (1988): The sexual contract.

<sup>67</sup> Elizabeth Cady Stanton, in a speech to the American Anti-Slavery Society: Quoted in Pateman , p.145.

<sup>68</sup> Pateman, Carole (1988): The sexual contract, p. 157,158.

<sup>69</sup> Mill agrees with Thompson on several issues; Pateman, p 161

<sup>70</sup> Pateman, Carole (1988): The sexual contract, p .158.

<sup>71</sup> Pateman, Carole (1988): The sexual contract, p .158.

within marriage, this includes the explicit commitment to obey especially if marriage is a better chance for them to have a decent life as mentioned above.<sup>72</sup>

If marriage is not a contract of mutual compensation and reciprocal treatment, it will not last as long as other contracts that satisfy and provide advantages to both parties. In addition, contracts with other parties and other alternatives might be deemed more attractive. At this point, the exit from the marriage contract turns out to be just as significant as the entry.<sup>73</sup> This leads to the termination of the marriage contract, divorce. In this research marriage and divorce are the most important categories that are discussed in depth in chapter nine. In many societies however, divorce did not exist in the past and when it was allowed it was seen as a scandal. Even some feminists were opposed to divorce because they were concerned that husbands could then walk out on their wives and children more easily than before.<sup>74</sup>

Pateman discusses the consideration of divorce as the end of marriage and whether marriage can be completely terminated at all or whether divorce is instead the transformation of marriage. This idea holds considerable relevance if children are involved and if women continue to look after their children following the divorce.<sup>75</sup>

Admittedly, Pateman limits her analysis to divorce and the resulting status change women experience, as well as the role played by the patriarchy in women's lives before marriage and after divorce. Some writers have criticized Pateman for focusing only on women inside the marriage contract, as it seems from her writings that the marriage contract is the only significant type of contract explaining the relationship between men and women.<sup>76</sup> The absence of discussion on other forms of contracts and other relationships between men and women in society is seen as a shortcoming in attempts to gain a better understanding of the contracts existing between men and women. The present research shares this view, since the focus here is on the relationship between men and women, including a consideration of the family as an institution that imposes different relationships between female and male family

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<sup>72</sup>Pateman, Carole (1988): *The sexual contract*, p. 181.

<sup>73</sup>Pateman, Carole (1988): *The sexual contract*, p. 183.

<sup>74</sup>Pateman, Carole (1988): *The sexual contract*, p. 184.

<sup>75</sup>Pateman, Carole (1988): *The sexual contract*, p. 184.

<sup>76</sup>Jason Caro (1998): *Freedom in Pateman's Feminism*, Center for Digital Discourse and Culture at Virginia Tech University, <http://www.cddc.vt.edu/feminism/Pateman.html>.

members. The social behavior of fathers, brothers and other male relatives is considered very important for this research. Not only male-female relations, but also female-female relations, such as between mothers and sisters. The interference of other relatives in the marriage and divorce contract that might affect the contract positively or negatively is also going to be analyzed in this research.

Either within the marriage contract or outside it, women are living under patriarchy in some form or another. The question that arises here has to do with how women deal with patriarchy. This question is found to be relevant in explaining the outcomes of this research. The theory of bargaining with patriarchy developed by Deniz Kandiyoti and other scholars such as Bina Agarwal<sup>77</sup> provides a theoretical answer to this question.

## **2.2 Bargaining with Patriarchy**

"I wanted to get divorced, but my husband was insisting on not getting divorced and threatened to take my daughter if I asked for a divorce in the courts. Even though my daughter is legally allowed live with me, I was still afraid that he would take my daughter. I tried to talk to him, but he was getting angry and shouting, insulting me. I tried again and again, I tried personally but also with my family, my brother and mother; I told him that I wouldn't ask for my Mahr Mu'akhar and would return to him the gold that he bought for me as Mahr Muqaddam. I said I also would not ask for child support in the courts; this made him rethink and agree to the divorce without asking for custody of my daughter." (In-depth individual interview with Lana)

The women's life stories in this research show that the women are facing different forms of violence; the question arises here of what women are doing and how they are tackling difficulties. I found the theory of bargaining with patriarchy as discussed by Deniz Kandiyoti supports the interpretation of the results of the field work. Kandiyoti argues that women living under certain constraints try to find strategies that strengthen their position against their oppression.<sup>78</sup> This discussion is specifically

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<sup>77</sup>Kandiyoti, Deniz (1988): *Bargaining with Patriarchy*; Agarwal, Bina (1997): "Bargaining" and gender relations: within and beyond the household

<sup>78</sup>Kandiyoti, Deniz (1988): *Bargaining with Patriarchy*, p. 275.

concerned with women's negotiation strategies for dealing with patriarchy and the patriarchal forms that emerge through women's bargaining.

Kandiyoti explains that women's subjectivity (being active or passive women) towards male domination is affected by how women bargain with patriarchy. Women negotiate with the other party to find a policy that offers more power within patriarchy. Sometimes the woman or both the woman and the other party in the bargaining process reach a compromise to get more benefits. Patriarchal bargaining is not interlinked to a specific place, time or era but is changeable and can lead to discovering a different kind of negotiation on based on genders relations.<sup>79</sup> Kandiyoti states that ,

"patriarchal bargains exert a powerful influence on the shaping of women's gendered subjectivity and determine the nature of gender ideology in different contexts. They also influence both the potential for and specific forms of women's active or passive resistance in the face of their oppression. Moreover, patriarchal bargains are not timeless or immutable entities, but are susceptible to historical transformations that open up new areas of struggle and renegotiation of the relations between genders."<sup>80</sup>

The concept of patriarchy as argued by Kandiyoti is the most commonly used concept in feminist research, yet it is still a vague concept and can be defined differently in different contexts. Despite that the concept of patriarchy is overused, it remains under theorized. She explains that while radical feminists called every sort of man or male domination patriarchy, Socialists used the concept to analyze the relationship between masculinity and class in capitalist society. Kandiyoti's aim is not to discuss the debate around patriarchy but rather to analyze the different forms of patriarchy that emerge through analyzing women's methods of dealing with it.

I also find defining this concept from a theoretical perspective to be not relevant to the research questions, although the focus in this dissertation is going to be on women's bargaining strategies in Kurdish society.

Kandiyoti defined the "bargaining with patriarchy" as women's strategies within a set of constraints in a patriarchal society.<sup>81</sup> This means that women are living within

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<sup>79</sup> Kandiyoti, Deniz (1988): *Bargaining with Patriarchy*, p. 275

<sup>80</sup> Kandiyoti, Deniz (1988): *Bargaining with Patriarchy*, p. 275

<sup>81</sup> Kandiyoti, Deniz (1988): *Bargaining with Patriarchy*, p. 275

different forms of patriarchy that request women to follow the "rules of the game". Consequently, women try to minimize the insecurities they are living in by following and finding different strategies.<sup>82</sup>

In her work Kandiyoti compares two systems in which women use bargaining strategies. The first system involves women's roles, positions, and negotiations in Africa and Sub-Saharan Africa. The second system has to do with women's roles, positions and negotiations in the Islamic world, South Asia, and East Asia. In the first system, Kandiyoti is concerned with women who work as farmers and their struggle against men controlling their income and land in Africa – in a society in which polygamy is considered a big threat to women and the women are responsible for the household as well as their and their children's expenses;<sup>83</sup> a discussion of which must remain outside the scope of this research since none of the situations of the respondents investigated can be explained by this theoretical argument. However, the second system of "classic patriarchy" is quite relevant to the situations of the women interviewed in this research. The concept of "classic patriarchy" for Kandiyoti is used "to define the societies in these areas. Cladwell defined this area as the region of the world with common societal characteristics."<sup>84</sup>

Kandiyoti (1988) argues that classic patriarchal systems can be found in what is called geographically the 'patriarchal belt,' including North Africa, the Middle East, Pakistan, Iran and Southeast Asia, specifically India and China.<sup>85</sup> Romie Littrell and Andy Bertsch explained that the countries in the area of the patriarchal belt share many gender perspectives, in other words the area of the patriarchal belt, "have a similar gender relations and position of women. The region includes North Africa, the Muslim Middle East (including some sub-culture in Turkey), Central Asia, and South Asia."<sup>86</sup> Women in these areas are experiencing subordination and restriction by men; this power of subordination comes from the patrilocal and patrilineal extended household. In spite of the developments and changes in the family structures, the

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<sup>82</sup>Kandiyoti, Deniz (1988): *Bargaining with Patriarchy*, p. 275

<sup>83</sup>Kandiyoti, Deniz (1988): *Bargaining with Patriarchy*, p. 275.

<sup>84</sup>Kandiyoti, Deniz (1988): *Bargaining with Patriarchy*, p. 275.

<sup>85</sup>Kandiyoti, Deniz (1988): *Bargaining with Patriarchy*, p. 275.

<sup>86</sup>Littrell, Romie Frederick and Bertsch, Andy (2013): Traditional and contemporary status of women in the patriarchal belt. in: *Equality, Diversity and Inclusion: An International Journal* 32(3), p. 312.

extended families are still playing an influential role in the life of women.<sup>87</sup> Kandiyoti explained that the patriarchal extended family “gives the senior man authority over everyone else, including younger men”<sup>88</sup>

Kandiyoti adds that,

“Under the classic patriarchy, girls are given away in marriage at a very young age into households headed by their husbands' father. There, they are subordinate not only to all the men but also to the more senior women, especially their mother-in-law. The extent to which this represents a total break with their own kin group varies in relation to the degree of endogamy in marriage practice and different conceptions of honor. Among the Turks, there are lower rates of endogamy, and a husband is principally responsible for a woman's honor. Among the Arabs, there is much greater mutuality among affines, and a woman's natal family retains both an interest and a say in protecting their married daughter's honor.”<sup>89</sup>

Kandiyoti analyzes marriage, specifically the relationship between the women's natal families and their families-in-law. She also discusses rituals like Mahr, women's work, their life cycles in the patriarchal extended family, and the power of the family-in-law wielded by both males and females. One of Kandiyoti's main arguments in regard to these issues involves the notion of honor: For Muslim societies, families show an interest in protecting the honor of their married daughter and this includes protecting her new family and insuring the continuity of the marriage relationship. In addition, marriage payments in the form of a Mahr or bride-price in a classic patriarchy are transferred directly to both families. In the words of Kandiyoti, “The young bride enters her husband's household as an effectively dispossessed individual who can establish her place in the patriline only by producing male offspring.”<sup>90</sup> Thus, in her new home a young married woman is subject to multiple forms of

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<sup>87</sup>Fischer-Tahir, Andrea (2009): *Brave men pretty women: gender and symbolic violence in Iraqi Kurdish urban society*. Europaisches zentrum fur kurdische studien, p.45; Hanse, Henny Harald (1961): *The Kurdish woman's life: field research in a Muslim society*. Andelsbogtrykkeriet. Denmark, p.115; Joseph, Suad (1994): “Gender and family in the Arab world”: *MERIP women in the middle east images and reality*

<sup>88</sup>Kandiyoti, Deniz (1988): *Bargaining with Patriarchy*, p.278.

<sup>89</sup>Kandiyoti, Deniz (1988): *Bargaining with Patriarchy*, p.278.

<sup>90</sup>Kandiyoti, Deniz (1988): *Bargaining with Patriarchy*, p.279.

patriarchy as she is under the control of her husband and natal family who takes the role of protecting her honor but also the control of the family-in-law, the father-in-law, and predominantly the control of mother-in-law. Kandiyoti explains the control of the mother-in-law by the fact that her grown "sons are a woman's most critical resource, ensuring their life-long loyalty is an enduring preoccupation."<sup>91</sup> The struggle of control and authority with the family-in-law is mostly over the acquisition and control of resources; understanding such behavior is crucial to understanding women's bargaining strategies.

Kandiyoti referred to the importance of the "woman's life cycle" in the classical extended patriarchal family. In classic patriarchy, when a young bride enters a new family she lives under the domination and oppression of the mother-in-law but the young woman realizes that this suppression is changed to authority and control when she becomes an old woman over her daughter-in-law, and the old women are gaining authority from their relation to their sons.<sup>92</sup> The relations between the mother-in-law and daughter-in-law were always questionable and problematical; so the women as mothers-in-law are getting more power and have more authority over the daughters-in-law.<sup>93</sup>

It is noteworthy to mention that many of the respondents (Nask, Nazaneen, Nasreen, Daliya, Dlnia and Shanaz) experienced oppression by the family-in-law specifically by the mother-in-law, but also the sister-in-law played the same role as that of the mother-in-law. So I find Kandiyoti's considerations relevant in order to find explanations for many of the stalemate situations mentioned by the respondents interviewed in this research.

The mothers-in-law use their married son as a power to control their daughter-in-law.<sup>94</sup> Bargaining with patriarchy is not specified to a particular place or time or people, the women bargain with fathers, brothers, husbands and mothers-in-law or

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<sup>91</sup> Kandiyoti, Deniz (1988): *Bargaining with Patriarchy*, p. 279.

<sup>92</sup> Kandiyoti, Deniz (1988): *Bargaining with Patriarchy*, p. 279

<sup>93</sup> Agha, Nadia (2015): *Women Bargaining with Patriarchy in Rural Pakistan: A Case Study of Khairpur, Sindh*. PhD thesis, University of York; Vlahoutsikou, Christina (1997): *Mothers-in-law and Daughters-in-Law: Politicizing Confrontations*. *Journal of Modern Greek Studies*. 15(2), pp. 283-302. ; Galam, Roderick

<sup>94</sup> Kandiyoti, Deniz (1988): *Bargaining with Patriarchy*, p. 279



they bargain with institutional agents of religion, or politicians.<sup>95</sup> Thus the women in classic patriarchy “will resist breaking the rules”.<sup>96</sup> They would rather maintain the status quo, which results in the reduction of the value of their labor and consequently in their dynamic “collusion in the reproduction of their own subordination. They would rather adopt interpersonal strategies that maximize their security through manipulation of the affections of their sons and husband.”<sup>97</sup>

The results of the field work correspond with what Kandiyoti investigated: thus some women (wives), the divorced women are adopting different mechanisms to handle the control and hindrance of their husbands, fathers and brothers or other male members in the family.

One of these mechanisms that they (women) used is to obey brothers and fathers, although when the divorced women were prevented by their brothers and fathers to work or to go out of the home, the women did not resist this but rather they obeyed<sup>98</sup> to obtain more security for themselves. Thus, they were also bargaining, this shows a sense of divorced women’s agency, which I will discuss in more detail in the section on agency.<sup>99</sup>

Moving beyond Kandiyoti, Bina Agarwal discusses what affects the bargaining power of women inside and outside of households. Agarwal discusses the types of intra- and extra-household dynamics in the framework of bargaining and gender relations. She focuses on household bargaining power and the effect of social norms, (individual) social perceptions and the bargaining process and how these factors can be negotiated, as well as the connections between intra- and extra-household bargaining powers. She emphasized that the two spheres, intra- and extra-household bargaining, are not separated but connected.

Agarwal described the other side of the picture as the “fall-back position” involving options outside the family that a woman can choose if cooperation fails in the intra,

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<sup>95</sup> Kalev, Henriette dahan.: *Bargaining with Spiritual Patriarchy: The Women in the Shas Movement in Israel* "New Topics in Feminist Philosophy of Religion: Contesting Concepts, Practice and Transcendence" (2010). Available at: <http://works.bepress.com/henrietedahankalev/3/>, p.3.

<sup>96</sup> Kandiyoti, Deniz (1988): *Bargaining with Patriarchy*, p. 280.

<sup>97</sup> Kandiyoti, Deniz (1988): *Bargaining with Patriarchy*, p. 280.

<sup>98</sup> Obedience as bargaining: even though, the women do not get what they want at the moment, but they build up credits for later needs.

<sup>99</sup> Kandiyoti, Deniz (1988): *Bargaining with Patriarchy*, p. 280.

noting the following: “An improvement in the person's fall-back position (better outside options) would lead to an improvement in the deal the person gets within the household.”<sup>100</sup> Finding a job, for example, might enhance the economic situation of a woman, which would improve her chances of negotiating a better position in the family. Some of the respondents (divorced women) in this research, starting to work helped them to expand their movement and to be able to bargain over more achievements in the family or as Agarwal referred the intra-household; for example the case of Maha and Nasreen that I discussed it in chapter nine.

Some of the respondents also used the state institutions (the offices of combating violence against woman and family and the shelter) as an outside option that supported women if their negotiations failed in the intra-household; in this way the state institutions are used by women as a strategy to make their position against their oppression stronger. Nasreen, who used one of the state institutions to support her, is a good example of this as described in chapter eight (8.2.1.3).

Pateman, Kandyoti and Agarwal discussed the gender relations and women’s roles, and status. All explained the different forms of patriarchy that exist in society. They referred to the women’s roles: women obey and negotiate to get and achieve their aim. In other words, women are expected to adhere to and negotiate the rules set by their husbands and other family members in order to gain more emotional, social and economic benefits within the patriarchal family. The capacity of their bargaining power in enhancing their situations in their families depends on the various capabilities and assets they possess. These capabilities and assets are discussed differently in the literature, the most relevant of which is the concept of agency which is discussed in different ways by a number of scholars, mainly Saba Mahmood, Liz Jeffrey, and many others that I will discuss next in more detail.

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<sup>100</sup>Agarwal, Bina (1997): "Bargainig" and Gender Relations: within and beyond the household. *Feminist Economics Journal* 3(1), p. 38.

## 2.3 Conceptualizing Women's Agency in the Middle East

To conceptualize agency, I started to ask many questions such as how the concept of agency is discussed in the context of Middle Eastern countries. How is this concept defined in relation to Muslim women in this area? My fieldwork showed that my Iraqi-Kurdish women respondents are dealing with a specific form of insecurity: especially because they are divorced women. But they are using different strategies to face these difficulties, which reveal a sense of their own agency. Agency can take different forms. I start with a review of broader definitions and I continue by looking specifically at how agency has been discussed in the context of the Middle East.

Liz Jeffery found that agency "implies the ability of individuals or groups to act on their situations, to behave as subjects rather than objects in their own lives, to shape their own circumstances and ultimately achieve change."<sup>101</sup> Jeffery explained that when individuals have power and capability to affect the environment they live in, and also try to change structures when those structures put restrictions and limitations on them, this is agency. It allows them to actively participate in what is happening around them.<sup>102</sup>

Adrian D. Van Breda defined agency as the power that humans hold at a micro-level to achieve their aims and influence the environment around them.<sup>103</sup> Individuals' agency depends on what the individual own, like property, social capital even health issues (physical capability) etc. Thus agency is,

"determined by people's individual assets (such as land, housing, livestock, savings) and capabilities of all types: human (such as good health and education), social (such as social well-being, a sense of identity, leadership relation) and psychological (self-esteem, self-confidence, ability to imagine

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<sup>101</sup> Jeffrey, Liz (2011): Understanding Agency: Social Welfare and Change, published in Great Britain, p. 6.

<sup>102</sup> Jeffrey, Liz (2011): Understanding Agency, p 6.

<sup>103</sup> Adrian D. Van Breda (2016): The roles of agency and structure in facilitating the successful transition out of care and into independent living, in: The Social Work Practitioner-Researcher 28(1), pp. 36 –52.

and aspire to a better future) and by people's collective assets and capabilities, such as voice, organization, responsibility and identity."<sup>104</sup>

The WDR<sup>105</sup> 2012 focused on "five expressions of agency: women's access to and control over resources; freedom of movement; freedom from the risk of violence; decision-making over family formation; and having a voice in society and influencing policy."<sup>106</sup>

Naila Kabeer defines agency as "processes by which choices are made and put into effect."<sup>107</sup> Kabeer states that agency can be positive or negative; in positive agency, a person has the "power to" make decisions regarding their life. Negative agency, though, is when a person wields "power over" others in order to control, like using violence to force one's will and prevent others' agency.<sup>108</sup> Agency is not only making decisions and choices but is also viewed by scholars as a means of challenging what is faced in life, for instance, challenging existing thoughts and values that legitimate inequalities.<sup>109</sup>

After I reviewed general debates regarding agency, I come back to focus on the concept of agency with regard to Muslim women in Middle Eastern countries, since my respondents are from that region. I investigate how agency is explained in the literature in this context and how it is formed in the lives of the women I researched. Four stages of debates regarding women's agency have been presented in the work of Sertac Sehlikoglu (2017). I use Sehlikoglu's framework to explain these stages in relation to my study, as I find that it enables an easier understanding of how the

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<sup>104</sup>Samman, Emma. Santos, Maria Emma (2009): Agency and empowerment: a review of concepts, indicators and empirical evidence. Oxford poverty and human development Initiative, department of international development. Queen Elizabeth house. p 3.

<sup>105</sup> The World Bank's World Development Report on Gender Equality and Development (WDR2012).

<sup>106</sup> Markham, Susan (2013): Women as agents of change: having voice in society and influencing policy. Women's Voice, Agency, & Participation Research Series 5, p 2.

<sup>107</sup>Kabeer, Naila (2005): Gender equality and women's empowerment: A critical analysis of the third millennium development goal 1, Gender & Development 13(1), pp. 13 – 24, DOI:10.1080/13552070512331332273, p. 14.

<sup>108</sup>Kabeer, Naila (1999): Resources, Agency, and Achievements: Reflections on the Measurement of Women's Empowerment 30(3), pp. 435-464, p.438.

<sup>109</sup> Kabeer, Naila (2005): Gender equality and women's empowerment: A critical analysis of the third millennium development goal 1, Gender & Development 13(1), pp. 13 – 24, DOI:10.1080/13552070512331332273, p. 15.

concept of women's agency developed in regard to the specific context of the Middle East.

In the 1960s and 1970s, the first stage of research showed a focus on issues like male bias, the ignoring of women's roles in the society or a focus only on male discrimination against women, separation of private and public spheres and the effects of colonialism.<sup>110</sup> Also, the incorporation of women in fieldwork was disregarded by most of the researchers. This was justified by access problems of male researchers to women, especially in regions like the Middle East, where male researchers could not enter women's spaces. Male researchers and scholars could not do field work study, in the private sphere or go to interview women. Although this issue was partly resolved by securing women's assistance in the field, the women subjects themselves were not studied or of much concern to the researchers.<sup>111</sup> Thus, in the first stage, the early ideas on agency started to emerge through refusing the idea of male bias and also through linking women's agency to the resistance and struggle for self-empowerment<sup>112</sup>.

The second stage was in the 1980s to 2000s, and is known as the post-colonial era. In this stage feminists engaged in gender and sexuality studies instead of focusing only on women's studies. In other words, feminists started to focus on the "man" and "family", but also on the role of the state and religion in women's lives. Research concerning Muslim women broadened and extended to cover a wide range of issues such as family and gender, the elite, and gender dynamics in leadership positions in the Middle East, and Islamic law. The concepts of religion, nation and state were discussed as a foundation of patriarchy. Sertac Sehlikoglu referred to many important developments in this stage, such as "1. More systematic formulation of womanhood, gender, and Islam. 2. Theoretical advancement in feminist Middle Eastern scholarship as a form of non-Western feminism and 3. Systematic critique of androgenic

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<sup>110</sup> Mahmood, Saba (2014): *Feminist Theory, Agency, and the Liberatory Subject*. In: Nourai-Simone, Fereshteh. *On Shifting Ground: Muslim Women in the Global Era*. Feminist press university of New York. pp. 190-234, p.194; Sehlikoglu, Sertac (2017): *Revisited: Muslim women's Agency and Feminist Anthropology of the Middle East*. in: *Cont Islam* 12 (73-99), p. 77.

<sup>111</sup> Sehlikoglu, Sertac (2017): *Revisited: Muslim Women's Agency and Feminist Anthropology of the Middle East*. in: *Cont Islam* 12 (73-92), p 75.

<sup>112</sup> Mahmood, Saba (2005): *Politics of Piety: The Islamic Revival and the Feminist Subject*. Princeton University Press.

perspectives embedded in orientalist studies"<sup>113</sup> Another important issue that should be highlighted in this stage is Islamic revivalism,<sup>114</sup> which appeared in some countries of the Middle East in the 1980s. Many discussions and different perspectives arose regarding women and Islamic revivalism (for example Edward E. Azar & Chung-in Moon (1983)<sup>115</sup>, and these debates continued to the third stage.<sup>116</sup> As noted by Sehlíkoglu (2017) and Aitemad Muhanna (2013),<sup>117</sup> the signs of awareness around women's agency began to grow during this stage through the emergence of discussion on subjecthood.

While the second and the third stages share the appearances of different debates on agency, the third stage (from around 2000 until 2010) is considered the one where a real theorizing of agency took place. After September 11, 2001<sup>118</sup>, scholars again started to attack Islam. Some researchers related Islam to violence and believed that Islam was against the culture of western societies and against democracy. The debates were around Islam and terror. Activists and feminist secularists played a big role in revisiting politics, providing a theoretical background and requesting reforms in Islam, especially regarding women. For instance, Lila Abu-Lughod's work in this third stage on resistance and power in Bedouin society focused on theorizing the

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<sup>113</sup> Sehlíkoglu, Sertac (2017): Revisited: Muslim Women's Agency and Feminist Anthropology of the Middle East. in: *Cont Islam* 12, pp. 73-92, p. 77.

<sup>114</sup>Islamic revivalism: is "reviving the social order that prevailed in the early times of Islam, an internalized ideal image for the Muslim masses, has become a common goal encompassing all the variants of revivalist movements". See: Edward E. Azar & Chung-in Moon (1983): Islamic revivalist movements: Patteras, causes and prospect, *Global Economic Review* 12 (1), pp.79-109. DOI: 10.1080/12265088308422701, p.81.

<sup>115</sup>Edward E. Azar & Chung-in Moon (1983): Islamic revivalist movements: Patteras, causes and prospect, *Global Economic Review* (12)1, pp.79-109. DOI: 10.1080/12265088308422701,p.81.

<sup>116</sup> Sehlíkoglu, Sertac (2017): Revisited: Muslim Women's Agency and Feminist Anthropology of the Middle East. in: *Cont Islam* 12, pp.73-92, p. 77.

<sup>117</sup> Aitemad Muhanna (2013): *Agency and Gender in Gaza: Masculinity, Femininity and Family during the Second Intifada*. Ashgat. Routledge.

<sup>118</sup> On 11 September 2001: terrorists hijacked four airplanes and deliberately flew them into targets in the United States of America. These acts of terrorism killed almost 3,000 people and triggered the subsequent conflict in Afghanistan see:

Hoffman, Bruce (2002): *Rethinking Terrorism and Counterterrorism since 9/11: Studies in Conflict and Terrorism* 25, pp. 303–316. <https://www.tandfonline.com/doi/pdf/10.1080/105761002901223>.

concept of agency and women's agency in particular, so, some signs of trying to rethink about the agency are observed in her work.<sup>119</sup> Other scholars wrote against the western image of Muslim women such as Saba Mahmood. Others still began to search for an "insider voice" that showed another side of women's abilities, which pushed researchers to look differently at women's agency.<sup>120</sup>

Saba Mahmood's (2005) work was one of the most influential in understanding the concept of agency in relation to women in the Middle East. She brought new insight by examining the pious Muslim women agency that was ignored for many years.<sup>121</sup> Mahmood's theory emerged out of her study in the mid-1990s of the urban women's mosque movement in Egypt, which formed part of the larger Islamic Revival in Cairo, Egypt. She demonstrates that agency is not only standing against male domination or resisting male power but it can be "a capacity for action that historically specific relations of subordination enable and create."<sup>122</sup> In the mosque movement she studied, women from different backgrounds (poor, middle class and rich) who were teaching and exchanging knowledge regarding different issues in relation to Islam, also claiming space in the mosques. They worked to cultivate an "ideal virtuous self",<sup>123</sup> It was the first time that such large numbers of women met at mosques, a place that is typically subordinated to males only. Not only did women begin meeting and learning about Islamic principles but a woman played the role of imam (usually reserved for men), with other women standing behind her and following her, "thereby altering the historically male-centered character of mosques as well as of Islamic pedagogy".<sup>124</sup> Mahmood explains her argument concerning women in the mosque movement by saying that her respondents referred to Islam "first and foremost as individual and

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<sup>119</sup> Abu – Lughod, Lila. (1990): The romance of resistance: Tracing transformation of power through Bedouin women. *American Ethnologist*. 17 (1), pp.41-55.

<sup>120</sup> Sehlkoglou, Sertac (2017): Revisited: Muslim Women's Agency and Feminist Anthropology of the Middle East. in: *Cont Islam* 12, pp.73-92, p. 79.

<sup>121</sup> Mahmood, Saba (2006): *Feminist Theory, Agency, and the Liberatory Subject: Some Reflections on the Islamic Revival in Egypt*, *Temenos* 42(1), pp.31–71, p.35

<sup>122</sup> Mahmood, Saba (2006): *Feminist Theory, Agency, and the Liberatory Subject: Some Reflections on the Islamic Revival in Egypt*, p.35.

<sup>123</sup> Mahmood, Saba (2005): *Politics of Piety: The Islamic Revival and the Feminist Subject*. Princeton University Press, p. 2.

<sup>124</sup> Mahmood, Saba (2005): *Politics of Piety: The Islamic Revival and the Feminist Subject*, p. 2,3.

collective practices of pious living".<sup>125</sup> For the women in this movement, attaining piety put the women in a conflict position with many structures of authority.

"The task of realizing piety placed these women in conflict with several structures of authority. Some of these structures were grounded in instituted standards of Islamic orthodoxy, others in norms of liberal discourse; some were grounded in the authority of parents and male kin, and others in state institutions. Yet the rationale behind these conflicts was not predicated upon, and therefore cannot be understood only by reference to, arguments for gender equality or resistance to male authority. Nor can these women's practices be read as an inscription of traditional roles, since the women mosque movement has significantly reconfigured the gendered practice of Islamic pedagogy and social institutions of mosques."<sup>126</sup>

For Mahmood, agency "is understood as the capacity to realize one's own interests against the weight of custom, tradition, transcendental will, or other obstacles (whether individual or collective)."<sup>127</sup> This was a departure from the western liberal discourse on women's subjection to male power, which sees agency only in women's resistance to male domination. She argued that women may readily submit to a normative system or rules in the system that requires feminine modesty and obedience in ways that western feminists would not consider emancipating. The Egyptian women in Mahmood's study found the act of submission to the religious standard as important in their lives as through it they cultivate their desire. Thus, for Mahmood, agency is not only resisting or fighting or making changes but, as Mahmood demonstrates " we should keep the meaning of agency open and allow it to emerge from within semantic and institutional networks that define and make possible particular ways of relating to people, things, and oneself"<sup>128</sup>

The third stage of debates on women's agency was important to furthering debates on agency in two main ways. First, it turned researchers away from only concentrating

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<sup>125</sup> Mahmood, Saba (2006): *Feminist Theory, Agency, and the Liberatory Subject: Some Reflections on the Islamic Revival in Egypt*, *Temenos* 42(1), pp. 31–71, p. 34.

<sup>126</sup> Mahmood, Saba (2006): *Feminist Theory, Agency, and the Liberatory Subject: Some Reflections on the Islamic Revival in Egypt*, *Temenos* 42(1), pp. 31–71, p. 43.

<sup>127</sup> Mahmood, Saba (2005): *Politics of Piety: The Islamic Revival and the Feminist Subject*. Princeton University Press, p.8.

<sup>128</sup> Mahmood, Saba (2005): *Politics of Piety: The Islamic Revival and the Feminist Subject*, p. 34.



on women to dealing with the question of gender. Secondly, it offered a substantive elaboration of the concept of agency and re-theorized it.<sup>129</sup>

Finally, Sehlikoglu Sertac comes to the fourth stage. She states that scholars of the fourth stage criticized the third stage since its main concern was religious agency, in other words "the pious Muslim as the only visible Muslim"<sup>130</sup>. Fourth stage theorists argued that scholars like Saba Mahmood did not examine agency in its other dimensions, in particular, the various matters in Muslim women's everyday life beyond religion.<sup>131</sup> In the fourth stage, the aspects of women's everyday life are the core of scholarly interest. Sehlikoglu Sertac wrote that this stage is interested in "different aspects of everyday life in the way it goes beyond the mosque"<sup>132</sup>, including "youth culture, art, leisure, desire, sports and ordinary everyday life."<sup>133</sup>

The fourth stage deliberated on the non-religious side of the "gendered Muslim to reflect the multifaceted and fluid nature of the subjectivities process and how it reflects imaginative aspects of self-formation, such as aspirations"<sup>134</sup>. So the fluidity, multiplicity, and temporality of subject hood are the focus in this stage, with Lois McNay as one of the better known feminist political theorists of this stage, known for developing the concept of agency in everyday life in Middle Eastern countries. McNay criticizes post structuralism<sup>135</sup> and western feminism and she disagreed with defining agency in relation to power. She rejected emphasizing one dimension of

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<sup>129</sup> Sehlikoglu, Sertac (2017): Revisited: Muslim Women's Agency and Feminist Anthropology of the Middle East. in: *Cont Islam* 12, pp. 73-92, p. 82, 81.

<sup>130</sup> Sehlikoglu, Sertac (2017): Revisited: Muslim Women's Agency and Feminist Anthropology of the Middle East, p. 82, 83.

<sup>131</sup> Sehlikoglu, Sertac (2017): Revisited: Muslim Women's Agency and Feminist Anthropology of the Middle East, p. 82, 83.

<sup>132</sup> Sehlikoglu, Sertac (2017): Revisited: Muslim Women's Agency and Feminist Anthropology of the Middle East, p. 82, 83.

<sup>133</sup> Sehlikoglu, Sertac (2017): Revisited: Muslim Women's Agency and Feminist Anthropology of the Middle East, p. 82, 83.

<sup>134</sup> Sehlikoglu, Sertac (2017): Revisited: Muslim Women's Agency and Feminist Anthropology of the Middle East, p. 82, 83.

<sup>135</sup> McNay criticized the post structuralism, she mentioned that they could not define "generative human agency" According to McNay, the post structuralism in the agency was addressed incompletely, was limited and also negative: so the subjects were always passive because the discussion on the subjecthood was understood and referred to as "dialectic of freedom and constrain"; see: Sehlikoglu, Sertac (2017): Revisited: Muslim Women's Agency and Feminist Anthropology of the Middle East

subjecthood and refused to focus only on pious subject hood, arguing for, "a more dynamic, multifaceted, fluid yet unified subjectivity and thus is able to propose a more grounded formulation of agency"<sup>136</sup>. Suad Joseph's and Nadjé al-Ali's work on agency in the Middle East is also considered in this fourth stage. Joseph, in her research on the Arab community of Camp Trad in Beirut, connected desire and agency; she stated that "liberal understandings of desire have long ignored non-western forms of desire because of their liberal, and hence narrow, formulation."<sup>137</sup> For Joseph, desire is "learned, taught, and practiced in the context of intimate patriarchal familial and communal relationships"<sup>138</sup>. Nadjé al-Ali (2007), in her book "Iraqi women: untold stories from 1948 to the present",<sup>139</sup> focused on the everyday of many women living inside Iraq and in the diaspora through their oral histories. She looked at women's roles and how women lived through the political instability in Iraq from 1946 to 2006, criticizing western scholarship's view of these women and arguing that Iraqi women were always portrayed as passive victims, but in reality, they played different roles through the historical turmoil, years of war, sanctions and US invasion. Thus, rather than passive victims, women were active agents who found solutions that allowed them to survive through different political and economic turns. For Sertac, her conclusion is that agency is,

"a process of interaction between the individuals and the larger social mechanisms operating on them. Patriarchal ideologies are one of those mechanisms, often taking multiple shapes and forms. Ethnographic focus should constantly be recalibrated to capture the fluidity of agency that might not always resist, but finds other ways to escape from, patriarchal ideologies".<sup>140</sup>

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<sup>136</sup>Sehlikoglu, Sertac (2017): Revisited: Muslim Women's Agency and Feminist Anthropology of the Middle East, p. 82, 83

<sup>137</sup>Sehlikoglu, Sertac (2017): Revisited: Muslim Women's Agency and Feminist Anthropology of the Middle East, p. 87.

<sup>138</sup>Sehlikoglu, Sertac (2017): Revisited: Muslim Women's Agency and Feminist Anthropology of the Middle East, p. 87.

<sup>139</sup>Al-Ali, Nadjé (2007): Iraqi Women: Untold Stories from 1948 to the Present, London, New York: Zed books.

<sup>140</sup>Sehlikoglu, Sertac (2017): Revisited: Muslim Women's Agency and Feminist Anthropology of the Middle East, p. 86.

In this study, I put a spotlight on different forms of agency that emerged during the analysis of my field work results. While, for the women in my study, religion in everyday life was not something they engaged with much, and as such, there is no sense of religious agency; I agree with Mahmood that the western liberal feminist view of agency is limited. For my respondents, who are divorced women in Iraqi Kurdistan, their agency manifests itself in different ways, in resisting or compromising with or even obeying the power of male relatives, and the normative system in the society. The results of my field work, discussed in chapter nine, concern the different forms of agency.

## **2.4 Gender Relations, Family, and Law in the Context of Middle East**

This part presents the main theoretical literature reviewed on gender relations, the role of family and the laws concerning women's issues in the Middle East. Considering the social structure of the Middle East, it is obvious that the family is the main unit of social relations and connections.<sup>141</sup> Based on the empirical outputs of this research on Iraqi Kurdistan the role of family and gender relations within the family is found to be significant.

One of the writers who tried to investigate the feminist theories in the context of the Middle East is Suad Joseph<sup>142</sup> who suggests a general framework to understand the broad patterns of gender and family dynamics. Joseph locates the family in the core of this framework. She claimed that women in the Middle East are obliged to build their networks through their families. Women are hardly viewed outside their relationship to their families or without a male guardian. Joseph referred that the whole social system in the Middle East is viewed by Joseph as a highly patriarchal where men are seen as the protectors of women and the main breadwinners<sup>143</sup>; the "family and/or community are valued more highly than the person. Connectivity, as a process by which persons are socialized with fluid boundaries, conceptually summarizes a

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<sup>141</sup>Nam, Charles (2004): The concept of the family: Demographic and genealogical perspectives, in: *Sociation Today*, the official journal of North Carolina sociological association. 2 (2).

<sup>142</sup>Joseph, Suad (1994): "Gender and family in the Arab world": MERIP women in the Middle East images and reality.

<sup>143</sup>Joseph, Suad (1994): "Gender and family in the Arab world": MERIP women in the Middle East images and reality.

process that supports the production of personas responding to and requiring the continual involvement of others in the crafting of the self." <sup>144</sup>

One of Joseph's main theoretical arguments is the location of family in the core of not only gender relations but also the political, social, and economic sectors. <sup>145</sup>

Halim Barakat agreed with Joseph that the family in its ideal form is the institution that determines to which class, religion and culture a person or group should belong and it controls other social institutions. Joseph and Barakat stressed that the family in the Middle East offers its members security and support in times of social stress. The success or failure of an individual member is considered that of the entire family. Every member of the family may be held accountable for the acts of every other member. The father and mother are held responsible for the entire family and they sacrifice themselves, particularly the mother, for the sake of their children, both children and parents are totally committed to the family itself. <sup>146</sup> Family members are expected to contribute to the support and maintenance of the family, and to behave according to traditional codes of family honor. Honor means for women, a chaste reputation, and for men, courage, piety and hospitality. <sup>147</sup>

In the family women have to put the family members' needs and demands before their own, family members are supposed to socialize, to love and help one another. Brothers and sisters provide support and make sacrifices for each other. Cock-Burn <sup>148</sup> argues that women traditionally are still viewed as the house keepers and who they should raise and teach children; and that men also by tradition are considered the protectors of women, children and the nation. <sup>149</sup> Similarly, Rubenberg argues that the

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<sup>144</sup>Joseph, Suad (1993): Connectivity and Patriarchy among Urban Working-Class Arab Families in Lebanon, *Ethos* 21(4) , pp. 452-484, Wiley on behalf of the American Anthropological Association. p.460. <https://www.jstor.org/stable/640580>

<sup>145</sup>Joseph, Suad (1994): Gender and family in Arab world, in: *Women in the Middle East*, p.195.

<sup>146</sup>Barakat, Halim (1993): *The Arab world: Society Culture and State*, University of California Press, p.98.

<sup>147</sup> Begikhani/ Gill / Hague (2010): Honour-based violence and honour based killings in Iraqi Kurdistan and in the Kurdish Diaspora in the UK: Final report; Rubenberg, Cheryl A. (2001): *Palestinian women: patriarchy and resistance in the west bank*, Lynne Rienner publishers. United states of America.

<sup>148</sup>Cock-Burn's referred in Al- Ali, Nadjé (2005): *Reconstructing Gender: Iraqi Women Between Dictatorship: War, Sanction and Occupation*, *Third World Quarterly* 26, p. 741.

<sup>149</sup>Al-Ali, Nadjé (2005): *Reconstructing gender: Iraqi women between dictatorship: War, sanction and occupation*, *Third World Quarterly* 26, p. 741.

family is the institutions that relates most directly to women. Women are learning their roles and obligations as required by society from their family. It is also the institution where women are expected to carry out their social roles as mothers and wives. The females are socializing to see that the family is the center to the Female.<sup>150</sup> According to these scholars, in the Middle East, the above is perceived as the ideal role and structure of family. However, in literature in many cases families are a source of discrimination and violence against women in Middle Eastern societies. Joseph argues and gives evidence to show that families as well as other institutions are not only sources of security for women but also a source of discrimination and insecurity. She calls that "the paradox of support and suppression, love and power, generosity and competition".<sup>151</sup>

Joseph furthermore pointed to the contradictory role of the family in women's life. The field work conducted for this research supports Joseph's claim, in that it shows that the family of divorced women played contradictory roles in women's life. See chapters six and nine.

This argument is also supported in the work of Agarwal<sup>152</sup> on bargaining and gender relations within and beyond the household. Agarwal extended this discussion to include analyzing the support women get from other institutions outside the family. The women get this support because they faced suppression by their family thus the women try to find another source of protection. For instance, the respondents in this PhD research got support from some of the state institutions like offices of CVAWF and shelters when their families become a source of threaten on the women.

Today, the family is under severe strain due to change in political and economic conditions, war, conflict, and the influence of other cultures. Joseph also points to the shifts taking place as a result of dynamic transformations in the Middle East. However, the family in its traditional "ideal" form is also under stress; for most Middle Eastern people, kin remain the focus of everyday life, as a means of survival.

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<sup>150</sup>Rubenberg, Cheryl A. (2001): *Palestinian women: patriarchy and resistance in the west bank*, Lynne Rienner publishers. United States of America. p.76.

<sup>151</sup>Joseph, Suad (2001): Introduction, In. *Women and power in the Middle East*, Joseph, Suad & Slyomovics, University of Pennsylvania, printed in the United states of America p. 8.

<sup>152</sup>Agarwal.Bina (1997): *Bargaining and gender relations: Within and beyond the household*, in: *Journal of Feminist Economics* 3(1), pp. 1-51. P.23.

[http://www.binaagarwal.com/downloads/apapers/bagaining\\_and\\_gender\\_relations.pdf](http://www.binaagarwal.com/downloads/apapers/bagaining_and_gender_relations.pdf).

In times of change, the support of the family is needed more, not less, and women and men are struggling to adapt family ties to new conditions. In response to the changes and the needs of individuals, a few institutions can be seen to emerge in some Middle Eastern countries such as orphanages and homes for the elderly, although they still care for only a tiny minority. For the majority of people, nothing has yet replaced the family as a source of support and alliance.<sup>153</sup>

In cases where the family is not functioning in the "ideal" way it supposed to do, women seek help and support from external sources in form of governmental or non-governmental institutions. These institutions are governed by laws that in most countries in the Middle East are drawn from Sharia (Islamic law). In literature it is contested if laws inspired by Sharia and the institutions that apply these laws could work in favor of women ](see chapter three.)

Scholars such as Nadjé Al-Ali<sup>154</sup> and Mubejel Baban<sup>155</sup> demonstrate that the laws in Middle Eastern countries are based on civil law, e.g. like in Egypt, except for personal status law (i.e. family law) which is based on Islamic Sharia law. They see these laws as biased in favor of men's rights over women's welfare.

Mounira Charrad<sup>156</sup> and Valentine Moghadam<sup>157</sup> for their part point out that the application of these laws differs from country to country. Moghadam argued that family law in the Middle East, or as she called it the "Patriarchal Gender Contract" is usually not in favor of women. According to this contract, a woman has to work for her husband, take care of the home and the children, obey him and the man has to

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<sup>153</sup>Ferna, Elizabeth Warnock (1985): *Women and the family in the Middle East: New Voice Chance*, University of Texas Press, pp. 25, 26.

<sup>154</sup>Al-Ali, Nadjé (2006): *Women's rights under Attack: Occupation, constitution and Islamist Extremism*, in: WLUML Occasional Papers 15, Published by Women Living under Muslim Laws, Nottingham, UK.

<sup>155</sup>Baban, Mubejel (2006): *Drafting the constitution and family laws in 1959*, in: WLUML Occasional Papers 15, Published by Women Living Under Muslim Laws, Nottingham, UK.

<sup>156</sup>Charrad, Mounira (2001): *State and Women's Rights, the making of postcolonial Tunisia, Algeria, and Morocco*, University of California Press, London.

<sup>157</sup>Moghadam, Valentine M. (2004): *Patriarchy in Transition: Women and the changing family in the Middle East*. in. *journal of comparative family studies* 35(2), turbulent times and family life in the contemporary Middle East, pp.137-162. published by dr.georgekurian, p.145.

exercise his supremacy by restricting the woman in order to “protect” her. This is codified by the state into "Muslim family law or Personal status law"<sup>158</sup>.

Brown and Romano<sup>159</sup> as well as Isobel Coleman<sup>160</sup> agree that personal status law and family law, e.g. issues under Sharia law which can be easily viewed as severe constraints of women's lives. Gihane Tabet<sup>161</sup> argues that in Iraq, Jordan, Lebanon, Palestine, Syria, and other countries with a majority Muslim population, the laws and norms that apply to men and women are discreet and unequal. Tabet points out that none of these countries has laws that guarantee equal status to women; also, the family laws in these case-study countries do not adhere to the international conventions that ensure women's' rights.

While Charrad agrees about the importance of personal status or family law (addressing marital duties and rights, divorce, inheritance, and child custody, among other issues) in the discussion regarding the legal status of women in the Middle East , she focuses on their potential to protect women’s right rather than harm them. In her writing on the state and women’s rights in the region, specifically Tunisia, Algeria, and Morocco, Charrad argues that “the extent to which postcolonial family codes in Tunisia, Algeria, and Morocco helped or harmed women can be explained by the nature of the relationship between the state and tribal kin groupings in each country”<sup>162</sup>. According to Charrad, in the Islamic world, basic rights in family law are a major measurement of gender equality and good family practices. The absence of these laws makes women more vulnerable in their relationship to the men in their families and communities. Furthermore, her paper addressed to the UN Department of Economic and Social Affairs (UNDESA) Charrad used the case of Tunisia to show

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<sup>158</sup>Moghadam, Valentine M. (2004): Patriarchy in Transition: Women and the changing family in the Middle East, p.145.

<sup>159</sup> Brown, Lucy/Romano, David (2006): Women in post -Saddam Iraq: One Step Forward or Two Steps Back, in: NWSA Journal 18(3), pp. 51-70.

<sup>160</sup> Coleman, Isobel (2006): Women, Islam, and the new Iraq, in: Foreign Affairs 85(1), pp.24-36.

<sup>161</sup>Gihane, Tabet (2005): Women in personal status laws: Iraq, Jordan, Lebanon, Palestine, Syria, in: SHS papers in women's studies/ gender research 4, p. 1, p.28.

<sup>162</sup>Hasso, Frances (2002): States and women’s rights: The making of postcolonial Tunisia, Algeria, and Morocco by Mounira M. Charrad. Source: Contemporary Sociology 31(6), pp. 735-736.

how the amendments and legal reforms in the family law could be in favor of women's rights.<sup>163</sup>

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<sup>163</sup>Charrad ,Mounira M.(2012), Family law reforms in the Arab world: Tunisia and Morocco: Report for the United Nations Department of Economic and Social Affairs (UNDESA).



## Chapter Three

### Political Instability and the Situation of Women in Iraq and Iraqi Kurdistan

#### 3.0 Introduction

When my grandmother talked about her past, she said that she used to wear an Abaya, a long black garment that covered her entire body, and a Pacha,<sup>164</sup> another piece used to cover her face, just like the majority of women at that time. One day, my grandfather came home and told her not to wear them again, saying that recently only “bad women” were wearing them to hide themselves and conceal their identity. She added, “It was the beginning of general Abd al-Karim Qasim’s rule and many things were changed after that.”

I could not stop thinking about this story, which raised many questions about women’s situation generally and specifically in Iraq, a country that has undergone many political changes. In addition to that, the story opened the door to such questions as, How did women’s situation change during the many political and cultural shifts throughout the history of Iraq and Iraqi Kurdistan? How were they affected by political changes? And how were laws related to women affected by these changes? In this chapter, I try to answer these questions with a focus on changes in legislation that generally affect women. It will be important to review the historical changes taking place in the region in order to understand the current situation of women in Iraq and Iraqi Kurdistan.

Consequently, this chapter traces briefly the historical course of events that have had a significant impact on the living situation of women today. It presents a historical overview of the changes to the political systems generally in Iraq and Iraqi Kurdistan, with a concentration on legislation concerning women, assuming that the changes in the political situation have led to a change in women’s living situation from a social and legal perspective.

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<sup>164</sup>Pacha: a Kurdish word that it is synonymous with the Arabic word Niqab. It refers to an Islamic Arabic traditional item of clothing worn to cover the whole face.

The chapter starts with the era of the Ottomans in Iraq, and moves to the British rule and the reign of Abd al-Karim Qasim and Saddam Hussein, and the several coup during these periods of time. This is followed by a discussion of the situation of women after the invasion of the US in Iraq and how this major event affected the legal situation and consequently women's lives.

To understand many of the current events, it is important to highlight the main events occurring throughout the course of history in Iraq and identify the changes in the political system. This study is focused on Iraqi Kurdistan, but it is important here to point out that Iraqi Kurdistan was and still is a part of Iraq.

The last part of the chapter will concentrate mainly on Iraqi Kurdistan; a historical review of the roles, activities and positions of Kurdish women is presented using some models and examples of well-known Kurdish women throughout history, and the gender relations and family is highlighted

### **3.1 The Ottoman Empire in Iraq: The beginning of Shia'a-Sunni Differentiation**

The area known as Iraq today was a part of the Ottoman Empire, which controlled a vast area extending from the Balkans and across the Middle East to North Africa for many centuries. The area was governed by the Ottomans in three provinces: Basra, Baghdad and Mosul, from 1534 to 1704 and again from 1831 to 1920. Authority in these provinces was given to the military rulers, the mamluk pashas, who to some extent governed independently from the Ottoman sultan in Istanbul. However, at the beginning of Ottoman rule, Iraq was a contested area between the Ottomans and the Safavids. The Ottoman Turks were Sunni Muslims, but the Safavids had been Shia'a Muslims since 1501, and several significant Shia'a holy sites are located in Iraq. After the conflict between the two parties, the Ottoman army regained control of Iraq, even though the influence of the Safavids remained in some Shia'a regions. The northern Ottoman province of Mosul was governed by a local dynasty, the Jalili, and there were semi-independent areas in the Kurdish settlements.<sup>165</sup>

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<sup>165</sup>Johnson, Constance (2004): Iraq: Legal history and traditions. The Law Library of Congress, LL File No. 2004-208. [http://www.loc.gov/law/help/iraq%20\\_legal\\_history\\_and\\_traditions.pdf](http://www.loc.gov/law/help/iraq%20_legal_history_and_traditions.pdf), p. 7, 8.

It is noteworthy to mention that under the influence of Safavid rule in these areas, many Shia'a Muslims migrated to the region and became the majority of the Iraqi population.

The Ottoman Empire had its own law in 1869 called "Mejelle"<sup>166</sup> that was a European-style codification of Islamic law of the Hanafi School. The Hanafi School was the major school of jurisprudence in Iraq, and became the main school of jurisprudence under the Ottoman Empire.<sup>167</sup> It is worth mentioning here that in the conflict between the Ottomans and the Safavids, religion in terms of being Sunni or Shia'a was used as the main differentiating element. Accordingly, Iraq experienced increasing internal religious division. At this time, Sultan Suleiman reformed the legal system and strengthened the Ottoman traditions of administrative practices. Consequently, the Ottoman government in Iraq introduced reforms called tanzimat especially during the rule of Midhat Pasha, the governor of Baghdad, in 1869. He instigated the Ottoman Vilayet law<sup>168</sup> of 1864 and modified the administrative divisions in Iraq. He mapped the borders of the Iraqi provinces and also reformed the economic sector, education, and many other sectors.<sup>169</sup> Another important characteristic of the legal system at that time was that both Shari'a (Islamic) laws and secular laws were applied. Cherland points out that the Ottoman law set up a separate legal system in the Middle East which consisted of secular law and Shari'a law. The Ottomans used Shari'a law for marriage, inheritance, divorce and custody matters, and secular law in cases of non-Muslim minorities (Jewish and Christian populations); each religion had its own court to pass judgment in the individual states.

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<sup>166</sup>Mejelle: an Ottoman legal code developed from Hanafi Islamic law in 1869. For more see: Stigall, Dan E. (2006): Iraqi civil law: Its sources, substance, and sundering, in: *Journal of Transnational Law & Policy* 16(1), pp. 1-72, p. 7

<sup>167</sup>Cherland, Kelsey (2014): *The development of personal status law in Jordan & Iraq*, PhD. Thesis, Claremont McKenna College, p. 36.

<sup>168</sup>Ottoman Vilayetin (1864): this law restructured the provinces inside the empire and changed the eyalet (province) system. It was an important change in the governmental structure of the Ottoman regional administration that the empire was divided into vilayets. For more, see: Ntotsikas, Eleftherios (2014): *Administrative reforms in the Ottoman Empire 1839– 1876: A discourse on sovereignty, liberalism and constitution*. Malmö. p. 8.  
[https://www.academia.edu/9411247/Administrative\\_Reforms\\_in\\_the\\_Ottoman\\_Empire](https://www.academia.edu/9411247/Administrative_Reforms_in_the_Ottoman_Empire)

<sup>169</sup>Efrati, Noga (2012): *Women in Iraq: Past meets present*. New York: Columbia University Press, p.1.

Coming to the situation of Kurdistan when Iraq was under Ottoman rule, it can be generally argued that the struggles of Kurds in Iraq have been associated with the political changes in Iraq since its formation.<sup>170</sup> With regard to the Kurds under Ottoman law, it is known that Greater Kurdistan was separated into two halves: One half belonged to the Persian Empire and the other to the Ottoman Empire. Bengio illustrates the suppression of Kurds in the Ottoman Empire, in particular during the administration of Mustafa Kemal, who enacted various inequitable policies against the Kurds. He prevented the use of the words 'Kurd' and 'Kurdistan' and considered the utterance of such names an illegal act.<sup>171</sup>

During this period of reform in the Ottoman Empire in the nineteenth century, the powerful local Kurdish leaders, the Beys, were upset at the reforms because it disturbed their relationship to the government.<sup>172</sup> Before the reform, many Kurdish tribes were exempt from paying taxes in exchange for maintaining the peace and not obstructing the trade route between the commercial centers in Iraq. In addition to that, Brad Dennis has shown that the Kurdish society at that time, and even before that time, was mainly governed by the major tribes and that the tribal laws were highly respected.<sup>173</sup>

The Ottoman reforms emphasized equality and strengthening the rule of law. Constance Johnson reports that the reforms instituted the rule of fair public trials under law and no punishment without a legal sentence, and the Council of Justice was given more authority and quasi-legislative powers. At this time, a number of laws were introduced based on European examples, including a Penal Code in 1858 modeled on the French Penal Code, a Commercial Procedures Law of 1861, a Civil Code of 1876, and the Criminal Procedures Law of 1879.<sup>174</sup> The entire legal system was reformed during the Ottoman Empire and the law was adaptable to all peoples.

The situation of women changed, and women went to court for financial issues, to dispute the possession of property, and for issues relating to marital matters. Cherland

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<sup>170</sup>Bengio, Ofra (2012): *The Kurds of Iraq: Building a State within a State*. London: Lynne Rienner, p.13.

<sup>171</sup>Bengio, Ofra (2012): p. 4-5.

<sup>172</sup>Dennis, Brad (2008): *Kurdish Armenian relations in the late Ottoman Empire: Power structures and interactive behavior*, Msc. Thesis: Utah University, p. 32-33.

<sup>173</sup>Dennis, Brad. p. 32-33

<sup>174</sup>Johnson, Constance (2004): *Iraq: Legal history and traditions*, p. 9-10.

emphases that the Ottomans were concerned with women's and children's matters and that their living situation was improved.<sup>175</sup> Also, Nahla and Tucker explain the flexibility of the Ottomans' legal system concerning women's issues; it allowed divorce by Shafii judges. Anderson also states that the legal amendments in the nineteenth and twentieth centuries were considered an improvement of Muslim women's situation.<sup>176</sup> Kandiyoti and Sirman as quoted in Efrati explain that during the Ottoman era, the attention to women's issues increased, particularly the call for women to be educated.<sup>177</sup> Neshat, however, argues that only women in the upper and middle classes and who lived in cities benefited from these reforms.<sup>178</sup> Coming to Iraq, the Ottomans reformed laws regarding family rights in 1917, but the laws relating to women did not take hold throughout Iraq. Tucker attributes this to the different Islamic schools in Iraq, the Hanafi and Jafri, which were dominant in the country at the time; thus, the situation varied in areas that were dominated by the Ottoman Empire, such as the Arab countries.<sup>179</sup> As the Ottoman Empire weakened, the British began to occupy the three Ottoman provinces of Basra and Baghdad in 1914, and started to complete their occupation of Iraq in 1917 when they occupied Mosul. The British aimed to protect their interests in the trade route to India.<sup>180</sup>

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<sup>175</sup>Cherland, Kelsey (2014): *The Development of Personal Status Law In Jordan & Iraq*, p. 36.

<sup>176</sup>Joseph, Suad (2006): *Encyclopedia of women and Islamic cultures: Family, body, sexuality and health*. Leiden: Brill 3, p. 369.

<sup>177</sup>Efrati, Noga (2010): *The other awakening in Iraq: The women's movement in the first half of the twentieth century*, in: *British Journal of Middle Eastern Studies* 31(2), pp.153-173, p. 156.

<sup>178</sup>Saeid N. Neshat (1993): *A Look into the Women's Movement in Iraq*, Farzaneh, in: *Journal of Women and Research Tehran*, 6 (11), p. 55.

<sup>179</sup>Tucker, Judith E. (1996): *Revisiting reform: women and the ottoman law of family rights, 1917*. *The Arab studies journal* 4(2), pp. 4-17, p.5; *Iraq: legal history and traditions* (2004). *The law library of congress*. [www.law.gov](http://www.law.gov), p. 11.

<sup>180</sup>Efrati, Noga (2012): *Women in Iraq: Past meets present*, p. 2-3.

### 3.2 British Rule in Iraq

The British had to deal with the many differences and divisions that led to several conflicts in Iraq. The main conflicts were against the Ottoman land reform and land distribution law, which arose between the villagers and the tribes over land disputes.<sup>181</sup>

The British started to close down some of the institutions that were created during the Ottoman reform period, including the elected municipal councils. The British offered to work through the local leaders; they trusted the local leaders as an alternative to maintain order in the countryside. They launched a Tribal Civil and Criminal Disputes Regulation that they developed from the same law in India. The British established a system of indirect rule which they installed in many of their communities; this led to tribalism in many colonies. Sheikhs were given authority to settle all disputes within their tribes and to collect taxes for the government; in return, money flowed to the Sheikhs through government projects and land grants. It has been argued that the British efforts changed the power structure of the tribes in the country to give them more power than before. In addition, a Baghdad Penal Code was issued in 1918, followed by a Companies' Law a year later. However, Iraq did not become a common law country, and instead remained a civil law jurisdiction.<sup>182</sup> It is obvious that the main legislation and laws became intense topics of debate.

Resistance and conflicts arose at this time due to the extensive fighting between tribes and different population groups; the Shia'a and Sunna disagreed with the rule of non-Muslim control, while the Kurdish tribes rejected control by the Anglo-Arab authorities in Baghdad. These resistances led to the famous revolution named "The Revolution of the Twenties" , in which the British put an Arab ruler under British administration. In 1921, King Faisal<sup>183</sup> I bin Hussein bin Ali al-Hashimi was selected and became the monarch. For local people, it seemed that Faisal I bin Hussein was simply a puppet of the British political system; however, he established a

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<sup>181</sup>Johnson, Constance (2004): Iraq: Legal history and traditions, p.12.

<sup>182</sup> Johnson, Constance (2004): Iraq: Legal history and traditions, p. 13.

<sup>183</sup>Faisal I bin Hussein bin Ali al-Hashimi was King of the Arab Kingdom of Syria or Greater Syria in 1920, and was King of Iraq from 23 August 1921 to 1933. For more, see: Jawad, Ali (2013): Sir Harry C Sinderson Pasha (1891–1974): physician, medical educator and royal confidant 43, pp.82–87, p.82. <http://dx.doi.org/10.4997/JRCPE.2013.118>.

constitutional parliamentary monarchy with a prime minister as head of government, but with a senate appointed by the king.<sup>184</sup>

The British indeed needed an effective legal system in different areas of life. They tried to use the legal system as a means to protect their interests.<sup>185</sup> They tried to abolish Ottoman Mejlle law and impose an Anglo-Indian civil code, a code based on laws created in India (which was under their control), but Mejlle remained the official basis for civil law in Iraq.<sup>186</sup> Moreover, the British constructed a new system of law in Iraq by dividing the population into two groups with different legal systems. "The rural population was subjected to the tribal criminal and civil disputes regulation (TCCDR),<sup>187</sup> but the urban population was subjected to the civil and criminal courts".<sup>188</sup> This was the British colonial political system that they used in the most of the areas under their domination; including their other colonies. This policy was followed by the British colonials to obtain more power and authority over the population.<sup>189</sup>

It is argued in the literature that women's living situation deteriorated during the time of British rule in Iraq. Neshat demonstrated that the British legal system in fact hindered the improvement of laws concerning women; additionally, they were not interested in equality of women's rights.<sup>190</sup> This is emphasized also by Noga Efrati, highlighting that the British mandate marginalized women when it rebuilt the civil and criminal laws, as well as Shari'a courts, and permitted the Shari'a judges to play a role after they had been expelled from participation during the Ottoman Empire. Edgar Bonham-Carter, in charge of administering the region, argued that the reason for maintaining Shari'a courts was that the Islamic principles did not fit with "Western ideas." It was also an attempt to gain the loyalty and cooperation of the clerics who had the overwhelming support of the people. Thus, he agreed to share the

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<sup>184</sup>Al-Marashi, Ibrahim/ Salama, Sammy (2008): Iraq's armed forces. London and New York: Routledge, p. 19

<sup>185</sup>Johnson, Constance (2004): Iraq: legal history and traditions, p. 12.

<sup>186</sup>Stigall, Dan E. (2006): Iraqi Civil Law: Its sources, substance, p. 9.

<sup>187</sup>TCCDR: tribal criminal and civil disputes regulation applied by British mandate to control Iraq; it remained until the end of the monarchy. See Efrati, Noga (2012), Women in Iraq: Past meets present, p. 20.

<sup>188</sup>Efrati, Noga (2012): Women in Iraq: Past meets present, p. 52.

<sup>189</sup>Mamdani, Mahmood ( ): Citizen and subject, p.21-22.

<sup>190</sup>Saeid N. Neshat (1993): p. 55.

administration of Iraq with the ulama. Although Bonham-Carter did not agree with what he called 'Mohammadan law,' especially the divorce and child custody laws, he realized that these laws were similar to the tribal laws. The reinstatement of these laws was also one of the reasons that led to neglecting women during British colonialism. Some British officials had different opinions regarding the ulama in the administration of the country and the Sharia law and the ulama's interpretations of Quran. One of these was Thomas Lyell, who served in many positions in Iraq and stated that "in matters of marriage and divorce Iraqi practice had departed radically from what had been set forth by the Qur'an as a result of ignorance and misinterpretation." The tribal law and Mohammadan law led the British to marginalize women,<sup>191</sup> which spurred women to join in many popular oppositional demonstrations in Iraq in response to the marginalization. The demonstration in 1920 is considered one of the important revolutions in which even the rural women in Iraq participated. Sabiha al sheikh Da'oud explains that "[r]ural women participated by giving moral support to their men, not hesitating to incite them to join in the rebellion. In the cities, especially in Baghdad, they were more restrained, nevertheless they played a part in the national awakening, encouraging the men to fight even if it led to their arrest."<sup>192</sup>

Evidence can be found in the work of Beitler and Martinez, who illustrate that even though women were encouraged by King Faisal I bin Hussein to take part in education, they were not given equal rights compared to men.<sup>193</sup> When a British mandate opened a school for girls in Baghdad in January 1920, they limited the girls' activities. This appeared very clearly in the speech made by Gertrude Bell, in which she made it obvious that the new school's goal was not to produce socially, economically, or politically active female citizens, but rather "to create proper mothers". To the British administrators, women were not destined to influence politics as an electoral force, but to affect it by constructing the proper mindset among the country's male subjects.<sup>194</sup>

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<sup>191</sup>Efrati, Noga (2012): Women in Iraq: Past meets present, p. 52-53.

<sup>192</sup>Doreen, Ingrams (1983): The awakened: Women in Iraq. London: Third World Centre for Research and Publishing, p. 26.

<sup>193</sup>Beitler, Ruth Margolies / Martinez Angelica R. (2010): Women's roles in the Middle East and North Africa. Library of Congress Cataloging-in-Publication Data. USA: Greenwood, p. 176.

<sup>194</sup>Efrati, Noga (2012): Women in Iraq: Past meets present, p. 8.



As for the Kurds, this period of time was very significant, during British rule Iraq constructed the country's constitution, and in the 1920 Treaty of Sévres gave the Kurds the right to establish Kurdistan. Later on, however, and before its execution, the Treaty of Sévres was rejected and replaced with the Treaty of Lausanne signed in 1923 which did not stipulate a separate Kurdish area. Instead, it gave the Kurds the right to use the Kurdish language, which was re-introduced as a formal language in the Kurdish area of Mosul. The Iraqi government eventually outlined the Organic Law in 1925 under the mandate, and the King issued the law with immediate execution orders on March 21, 1925. The law stated that the government of Iraq had to be considered a representative system and a hereditary constitutional monarchy. The King was assigned more power and the right to accept or reject all laws, to call for general elections, to discontinue a session of the Parliament or dissolve it, and to issue ordinances needed to fulfill treaty obligations without consulting the Parliament and when the Parliament was not in session.<sup>195</sup> Moreover, the King had the right to select the Prime Minister and to appoint the other ministers based on the Prime Minister's recommendations.<sup>196</sup>

Women did not have their share in the Organic Law; they did not participate in issuing the law and they were even excluded from serving in parliaments. The law was concerned mainly with Iraq's internal problems.<sup>197</sup> Also, the British mandate insisted on including separate tribal jurisdiction in the Organic Law; the TCCDR became state law. This law was considered a threat to women.<sup>198</sup> Women were not mentioned or granted any rights.<sup>199</sup>

King Faisal, who had become a unifying symbol in Iraq, died in September 1933 outside of the country seeking medical treatment.<sup>200</sup> He was followed by his son, King Ghazi, who had no experience and was known to have no interest in politics. After that, a National Defense ordinance was passed by the Parliament to establish an expanded armed forces; this was supported by those who were behind the idea of having a strong centralized army in Iraq. Opposition and political unrest continued in

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<sup>195</sup>Efrati, Noga (2012) : Women in Iraq: Past meets present, p. 8

<sup>196</sup>Johnson, Constance (2004): p. 14

<sup>197</sup>Efrati, Noga (2012): Women in Iraq: Past meets present, p. 9.

<sup>198</sup>Efrati, Noga (2012) : Women in Iraq: Past meets present, pp. 22- 23.

<sup>199</sup>See constitution of Iraq, 1925.

<sup>200</sup>Johnson, Constance (2004): p. 17.

Iraq after this time; they were largely suppressed by the government, although local pressure against the constitutional monarchy grew rapidly. In the time between 1944 and 1946, sixteen labor unions were licensed, three-quarters of which were under the control of the Iraqi community and its local organizations. The resistance against British rule in Iraq was the first time when all local leaders without regard to their backgrounds united under the aim of national independence. In July 1958, a large group of soldiers entered the royal palace and killed the king, as well as a number of his family members; his assistants and government officials including the Prime Minister were also assassinated. The British embassy was destroyed; obviously, the constitutional monarchy had come to an end. The rebellions closed the Parliament, issuing Proclamation No. 1, which declared that a Republican regime had been established.<sup>201</sup>

### **3.3 Iraq from Abd al-Karim Qasim to Saddam Hussein: Coups and Constitutions**

The revolution of 1958 which was led by Abd al-Karim Qasim (1914-1963), known as al-za‘īm (الزعيم) or "The Leader" against King Faisal, was one of the most important coups in the history of Iraq, because it took Iraq out of Western hands, especially the British.<sup>202</sup>

After this coup, the Republic of Iraq was declared by Abd al-Karim Qasim..<sup>203</sup> The revolution leaders decided to form an interim constitution until permanent constitutional legislation was completed:

Iraq was described in the constitution as part of the “Arab nation” and Islam was listed as the official religion. Kurds and Arabs were described as equal partners in the nation. In addition, the document called the state a republic, though one without a representative legislature.<sup>204</sup>

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<sup>201</sup>Johnson, Constance (2004): Iraq: Legal history and traditions, pp. 17-20.

<sup>202</sup>Holden, Stacy E (2012): A documentary history of modern Iraq. USA: Florida University Press, p.10.

<sup>203</sup>Iraqi basic law or the constitution of 1925 is the first constitution of Iraq after the British occupation.

<sup>204</sup>Johnson, Constance (2004): Iraq: Legal history and traditions, pp. 19-21

Abd al-Karim Qasim established a Sovereignty Council of three men at the head of the state. A key institution was the Special Supreme Military Court, established early in the new regime.<sup>205</sup> Two new articles were added to the interim constitution, the first was Article 4, stating that "Islam is the country's religion," and the second was Article 17, stating that "[t]he armed forces in the republic of Iraq is under the authority of the people and their duty is to protect the country and its safety."<sup>206</sup> This coup intended to reform and modernize Iraq.<sup>207</sup>

As one of the social reforms, Qasim introduced the Personal Status Law No. 188<sup>208</sup> which was passed in 1959. This law was considered one of the most protective and progressive for women's rights regarding marriage, divorce, inheritance and polygamy.<sup>209</sup> This law partially departed from Sharia law; it presented equal women's rights regarding inheritance, marriage and divorce. It also transferred marriage, divorce and inheritance to the civil court instead of referring them to the religious courts and it offered custody rights. Thus, this law offered women legal rights in issues relating to the family; it also referred to the necessity of training the judge by the state to be able to work with the personal status law.<sup>210</sup> The law consists of 94 articles.<sup>211</sup> The interesting articles related to women's rights are summarized below. First, marriage and divorce articles are explained due to their significance for this thesis. Here, I present the articles referring to the importance of the court-issued marriage contract in order to protect women's rights in marriage. These articles also put restrictions and sanctions on early marriage, forced marriage and on men.

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<sup>205</sup>Johnson, Constance (2004): Iraq: Legal history and traditions, pp. 19-21.

<sup>206</sup>List of Iraq's constitutions.

[http://confinder.richmond.edu/admin/docs/1958\\_Interim\\_Constitution\\_\\_English\\_.PDF](http://confinder.richmond.edu/admin/docs/1958_Interim_Constitution__English_.PDF)

<sup>207</sup>Marr, Phebe (2004): The modern history of Iraq. USA: Westview Press, p. 81.

<sup>208</sup>Al-Marashi, Ibrahim/ Salama, Sammy (2008): Iraq's armed forces. London and New York: Routledge, p. 79.

<sup>209</sup>Ahmed, Huda (2010): 'Iraq,' in Sanja Kelly and Julia Breslin, eds., (2010) Women's Rights in the Middle East and North Africa, New York, NY: Freedom House; Lanham, MD: Rowman & Littlefield, p. 1.

<sup>210</sup>Cherland, Kelsey (2014): The development of personal status law in Jordan and Iraq, p. 70. Cherland, Kelsey, "The Development Of Personal Status Law In Jordan & Iraq" (2014). CMC Senior Theses. 865. [http://scholarship.claremont.edu/cmc\\_theses/865](http://scholarship.claremont.edu/cmc_theses/865).

<sup>211</sup>Personal status law No. 188 (1959). <https://refworld.org/es/pdfid/5c7664947.pdf>.

Regarding polygamy, a man could not marry a second wife if he had no reason to do so; in other words, his marriage to a second wife could only be permitted by a judge. Article 3 Paragraph 1 states: "Marriage is a contract between a man and a woman who is lawfully permissible to him, the purpose of which is to establish a bond for a mutual life and procreate children." Paragraph 2 states that "[i]f the marriage contract has been initiated, the two parties shall abide by the provisions incumbent upon them at the time of its initiation." Paragraph 3 states: "The promise of marriage, the recital of Al-Fatiha (the first Surah of the Holy Quran) and the betrothal are not considered as a contract." Paragraph 4 states that "[m]arrying more than one woman is not allowed except with the authorization of the Qadi (judge)." Granting this authorization is dependent on the fulfillment of two conditions: First, the husband should have the financial capacity to provide for more than one wife and, second, there must be a legitimate interest. Paragraph 5 states, "[i]f justice between wives is feared, polygamy may not be allowed."<sup>212</sup> The issue would then be left to the judge's determination.

Paragraph 6 states: "Each person who concludes a marriage contract with more than one wife, contrary to the stipulations of paragraphs 4 and 5, shall be sentenced to no more than one year of imprisonment or charged with a fine not exceeding 100 Dinars or both."<sup>213</sup> Paragraph 7 states: "Exception from the provisions of paragraphs 4 and 5 of this article: marriage to more than one woman is permissible when the prospective wife is a widow".<sup>214</sup> Paragraph 4 prevents polygamy under some restrictions.

Article 8, Paragraph 1, states that "if a 15-year-old person asks to be married, the judge can authorize his marriage if the eligibility and physical ability of the person in question was proven to him after obtaining the approval of his legal guardian. If the guardian abstains from responding, the judge calls upon him to state his answer during a defined period. Thus, if the guardian does not object or if he submits an objection that is unworthy of consideration, the judge shall proceed to authorizing the marriage."<sup>215</sup> Paragraph 2 states that "the judge can authorize the marriage of a 15-year-old person if he sees in it an urgent necessity. Giving such authorization is also

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<sup>212</sup>See law No. 188 (1959): Personal status law, p. 1.

<sup>213</sup>See law No. 188 (1959): Personal status law, p. 1.

<sup>214</sup>See law No. 188 (1959): Personal status law, p. 1.

<sup>215</sup>See law No. 188 (1959): Personal status law, p. 1.

conditional upon the attainment of legal puberty and physical ability."<sup>216</sup> This article presents an important point that prevents marriage for women under 15 years of age and stipulates that the marriage must be entered in the official registry.<sup>217</sup>

Article 9 Paragraph 1 states that "no relative or non-relative has the right to force marriage on any person, whether male or female, without their consent. The contract of a forced marriage is considered void if the marriage is not yet consummated. Moreover, none of the relatives or other people has the right to prevent whoever is eligible for marriage from being married by virtue of the provisions of this marriage law." Paragraph 2 states that "a first-degree relative who breaches the provisions of paragraph 1 of this article shall be sentenced to no more than three years imprisonment and charged with a fine of a specified amount. If the person who breaches this provision is not a first-degree relative, he shall be sentenced to an imprisonment term varying from a minimum of three years to a maximum of ten years." Paragraph 3 states that "the Shari'a Court or the Personal Status Court must notify the investigation authorities of any violation of the provisions of paragraph 1 of this article so that they take legal action against the person in question. The court is entitled to hold him in custody to ensure his appearance before the said authorities. Furthermore, the person who was subject to coercion or prevention has the right to refer directly to the investigation authorities concerning this matter."<sup>218</sup> According to this article, forced marriages are prevented and the violator is subject to between 3 and 10 years imprisonment depending on the degree of kinship.

The paragraphs and articles above reflect legislation that protects women's rights in marriage. The marriage laws (marriage contract) prevent men from marrying more than one woman, so the laws put restrictions on polygamy; a man who wants to marry a second wife needs to provide a convincing excuse, for instance that his wife is sick, and he should also prove that he is financially able to provide for more than one wife. In the end, however, it also depends on what the judge decides, as will be explained more below. A man who disregards these rules is punished by up to one year of imprisonment or a fine of 100 Dinars. The laws also prevent early marriage by forbidding persons under the age of 15 to marry. Moreover, if a woman wants to

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<sup>216</sup>See law No. 188 (1959): Personal status law, p. 1.

<sup>217</sup>See law No. 188 (1959): Personal status law, p. 3.

<sup>218</sup>See law No. 188 (1959): Personal status law, p. 3, 4.

marry at 15 she needs to prove her physical ability to the judge and verify her guardian's agreement to the marriage in front of the judge. The laws prevent forced marriage by punishing anyone who forces another person to get married; the punishment is between three and ten years. These laws improved women's situation and strengthened their status as married women or even as single women in the society; however, it is important to mention that there were many gaps in implementing these laws. One of these was the failure to define the role of the judge, who could thus decide whatever he wanted in most cases.

Regarding the laws governing divorce, it is still a problematic step for women in Iraqi society, in spite of the personal status law no. 188, 1959, that brought about many laws supporting women in divorce. Unfortunately, however, the laws still do not serve women's interests and do not achieve equality between men and women in matters of divorce.

Article 34 defines divorce as a "means to sever the bond of marriage. It is done by the man, the woman, any authorized representative or the judge. The divorce must be performed according to the Shari'a."<sup>219</sup> Article 38 stipulates that divorce is also

"divided into two kinds: 1- The revocable divorce which allows the husband to return to his wife during her waiting period (iddat) without a contract.

2- The irrevocable divorce is of two kinds as well:

a- A minor irrevocable divorce (talaq ba'in baynounatun sughra) which allows the husband to marry his divorcee with a new contract

b- A major irrevocable divorce (talaq ba'in baynounatun kubra) which forbids the husband to marry the divorcee whom he has repudiated three separate times and whose waiting period has expired."<sup>220</sup>

The personal status law of 1959 refers to three types of divorce: Talaq or divorce by the husband, divorce in the court by the judge, and voluntary divorce by the wife.

Article 40 states that if a man divorces his wife without reason, he will need to provide compensation. The article defines appropriate reasons for divorce.<sup>221</sup> The law

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<sup>219</sup>National Legislative Bodies / National Authorities (1959): Iraq: Law no. 188 of 1959. Personal status law and amendments: family law. Available at.

[http://gjpi.org/wp-content/uploads/2009/01/iraq\\_personal\\_status\\_law\\_1959\\_english\\_translation.pdf](http://gjpi.org/wp-content/uploads/2009/01/iraq_personal_status_law_1959_english_translation.pdf)

<sup>220</sup>For Articles 38, see.

[http://gjpi.org/wp-content/uploads/2009/01/iraq\\_personal\\_status\\_law\\_1959\\_english\\_translation.pdf](http://gjpi.org/wp-content/uploads/2009/01/iraq_personal_status_law_1959_english_translation.pdf)

gives many reasons for judicial divorce to support the wife in obtaining a divorce, as well as the husband, despite enjoying his sole right to divorce. Articles 40-46 explain these reasons, which can be summarized as “harm” caused by either spouse, such that marital life cannot continue because of it, e.g. addiction to drugs and alcohol, gambling, homosexuality or infidelity. Other reasons include completing the marriage contract before reaching the age of 18 and without the consent of the judge, or marriage completed outside the court or cases where the man married a second wife without the permission of the judge.<sup>222</sup>

In addition, the law allows the wife to request a divorce for the following reasons: If her husband is sentenced with a prison sentence of three years or more, does not ask to complete the wedding or has a psychological or physical illness that may harm the wife, such as leprosy, tuberculosis, syphilis or insanity. Also, she may request divorce if her husband resides outside Iraq for at least three years or has been missing for at least four years.<sup>223</sup> The personal status law of 1958, as a mechanism to deal with marriage and divorce, is considered to offer women the most rights compared to traditional practices, which barely allow women the right to divorce at all. The law gives women much more autonomy in their marriage and its termination. Abdul Karim Qasim’s personal status laws of 1959 supported women and changed their situation, reflected in the women’s daily lives. As I mentioned in the introduction, my grandmother always talked about the period of Qasim’s rule as one in which women started to wear modern clothes (in my grandmother’s words) and move around freely outside the home. My grandmother did not receive an education and did not understand the laws and political changes, but she felt the improvement in women’s situation at that time.

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<sup>221</sup>National Legislative Bodies / National Authorities (1959): Iraq: Law no. 188 of 1959. Personal status law and amendments: family law; Cherland, Kelsey (2014): The development of personal status law in Jordan and Iraq, p.75.

<sup>222</sup>National Legislative Bodies / National Authorities (1959): Iraq: Law no. 188 of 1959. Personal status law and amendments: family law. Available at: [http://gjpi.org/wp-content/uploads/2009/01/iraq\\_personal\\_status\\_law\\_1959\\_english\\_translation.pdf](http://gjpi.org/wp-content/uploads/2009/01/iraq_personal_status_law_1959_english_translation.pdf).; Cherland, Kelsey (2014): The development of personal status law in Jordan and Iraq, p. 75.

<sup>223</sup>National Legislative Bodies / National Authorities (1959): Iraq: Law no. 188 of 1959. Personal status law and amendments: family law. Available at: [http://gjpi.org/wp-content/uploads/2009/01/iraq\\_personal\\_status\\_law\\_1959\\_english\\_translation.pdf](http://gjpi.org/wp-content/uploads/2009/01/iraq_personal_status_law_1959_english_translation.pdf).; Cherland, Kelsey (2014): The development of personal status law in Jordan and Iraq, p. 75.

It can be stated that Qasim made many attempts at reform and ushered in an era of change, but the main problem was the absence of a political structure and the inability to mobilize a broad enough population to rule.<sup>224</sup> Therefore, any legal guarantees remained tenuous for the execution of the personal status law, given Iraq's unstable political situation. According to Huda Ahmed, Iraqi women succeeded in guaranteeing some of these rights in the period of Qasim's rule.<sup>225</sup>

The Ba'ath<sup>226</sup> party organized two coups in Iraq during the 1960s. In 1963, the Ba'ath organized the first coup against Qasim and overthrew him.<sup>227</sup> After that, Abdul-Salam Arif came to power and started by reversing Qasim's personal status law by introducing Nationality Law no. 43, changing the polygamy law and repealing provisions applicable to inheritance, which were based on Shari'a Islamic law, to appease conservative factions of society. For example, Article 90 uses the principles found in the Shari'a to determine the distribution of inheritance among family members.<sup>228</sup> "Abdul-Salam Arif also sought to consolidate his military regime by creating a network based on support of his family. His brother, Colonel Abdul Al-Rahman was promoted to the rank of brigadier."<sup>229</sup> Arif was killed in an accident and was replaced by his brother Abdul-Rahman Arif.<sup>230</sup>

The second Ba'ath coup was in 1968, which overthrew the Iraqi government, and Abdel-Rahman Arif was stripped of his power and ordered to leave the country after the Ba'ath party took control. The Ba'ath party took power in Iraq and the first order of the new regime was to set up the Revolutionary Command Council (RCC), which

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<sup>224</sup>Marr, Phebe (2004): *The modern history of Iraq*, p. 81, 82

<sup>225</sup>Ahmed, Huda (2010): 'Iraq,' in Sanja Kelly and Julia Breslin, eds, (2010) *Women's Rights in the Middle East and North Africa*, p. 1.

<sup>226</sup>Baath Party: an Arab political party in Syria and Iraq. Its main ideological objectives are secularism, socialism, and pan-Arab unionism. Founded in Damascus in 1941 and reformed, with the name Ba'ath, in the early 1950s, it rapidly achieved political power in Syria. See. <http://www.infoplease.com/encyclopedia/history/baath-party.html#ixzz35DS3cSgb>.

<sup>227</sup>Holden, Stacy E (2012): *A documentary history of modern Iraq*, p. 10.

<sup>228</sup>Ahmed, Huda (2010): p.1; Cherland, Kelsey (2014): *The development of personal status law in Jordan and Iraq*, p. 76, 80.

<sup>229</sup>Al-Marashi, Ibrahim/ Salama, Sammy (2008): *Iraq's armed forces*. London and New York: Routledge, p. 94.

<sup>230</sup>Ahmed Huda (2010): 'Iraq,' in Sanja Kelly and Julia Breslin, eds, (2010) *Women's Rights in the Middle East and North Africa*, p. 1.



elected Ahmed Hassan Al-Bakr as president of the republic and Saddam Hussein as vice president. With Iraq was under the control of the Ba'ath party, Ahmed Hassan al-Bakr resigned and Saddam Hussein succeeded to become president of Iraq in 1973.<sup>231</sup> At the beginning of Ba'ath party rule in the time of what was called the "revolution," women's rights and living situation improved. However, later on when Iraq was involved in a number of different wars, the situation of women rapidly deteriorated. The Ba'ath party as a secular party implemented a provisional constitution in 1970 that provided women with additional rights.

Article 19, Paragraph (a) states: "Citizens are equal before the law, without discrimination because of sex, blood, language, social origin, or religion." Paragraph (b) continues: "Equal opportunities are guaranteed to all citizens, according to the law."<sup>232</sup> This provides equality of women and men before the law, and grants women the right to work. Article 27, Paragraph (a) states: "The State undertakes the struggle against illiteracy and guarantees the right of education, free of charge, in its primary, secondary, and university stages, for all citizens." Paragraph (b) goes on to stipulate that "[t]he State strives to make the primary education compulsory, to expand vocational and technical education in cities and rural areas, and to encourage particularly night education which enables the popular masses to combine science and work." Paragraph (c) continues: "The State guarantees the freedom of scientific research, encourages and rewards excellence and initiative in all mental, scientific, and artistic activities and all aspects of popular excellence."<sup>233</sup> This article guarantees free education for all citizens at all levels, which means that according to this law the state guarantees freedom, equality and free education to women as well. Article 30, Paragraph (a) states: "Public office is a sacred confidence and a social service; its essence is the honest and conscious obligation to the interests of the masses, their rights and liberties, in accordance with the rules of the constitution and the laws." Paragraph (b) states further that, "Equality in the appointment for public offices is

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<sup>231</sup>Koob, Erik (2003): Ba'th party coup in Iraq 1968, Middle East and West Asia Chronology. See. <http://www.thenagain.info/webchron/middleeast/BathCoup.html>.

<sup>232</sup>World Intellectual Property Organization (WIPO), list of Iraq's constitutions, p.3. <http://www.niqash.org/articles/?id=2306>

<sup>233</sup>World Intellectual Property Organization (WIPO), list of Iraq's constitutions, <http://www.niqash.org/articles/?id=2306>, p.4.

guaranteed by the law."<sup>234</sup> This granted women the right to work in public jobs just as men did, as well as the right to health insurance.

Besides what was given in the constitution, between 1970 and 1980 women participated to a remarkable extent in the public sector, especially during the Iran-Iraq war, when Saddam Hussein urged women to fill men's positions in schools, universities, hospitals, factories, the military, and the police.<sup>235</sup> In 1971, Iraq ratified both International Covenants on Civil and Political Rights (ICCPR) and Economic, Social and Cultural Rights (ICESCR), which gave equal protection under international law to all.<sup>236</sup> In 1972, the Ba'ath party established the General Federation of Iraqi Women (GFIW) to implement state policy and create a vehicle for women's rights. It was the only official women's organization in Iraq.<sup>237</sup> In 1980, Iraqi women received the right to vote.<sup>238</sup>

However, it is debated in the literature that the Ba'ath efforts to support women can be also explained by the desire to have more control over women and make them loyal to the party.

Huda Ahmed states that the GFIW was financed and sustained by the government, and used as a tool to advocate for the party's revolutionary and socialist principles.<sup>239</sup> Thus, the organization was mainly under the government's authority. Some believe that during his presidency (1979-2003) Saddam Hussein sustained the GFIW only as a means to break up the old familial and tribal structure, which would allow him to have more power over the society and redirect it towards a Ba'athist and nationalist focus. The mission of this organization was achieved in 1997, when 47% of all women in Iraq belonged to the GFIW and thus supported the Ba'ath party just as the leaders wanted.

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<sup>234</sup>World Intellectual Property Organization (WIPO), list of Iraq's constitutions. <http://www.niqash.org/articles/?id=2306>, p.4.

<sup>235</sup>Ahmed Huda (2010): 'Iraq,' in Sanja Kelly and Julia Breslin, eds, (2010) Women's Rights in the Middle East and North Africa, p. 17.

<sup>236</sup>Human Rights Watch (2003): Iraq and Iraqi Kurdistan. <http://www.hrw.org/legacy/wr2k3/pdf/iraqandiraqikurdistan.pdf>.

<sup>237</sup>Ahmed, Huda (2010): p.2 ; Cherland, Kelsey (2014): p.81

<sup>238</sup>Lasky, P. Marjorie: Iraqi women under siege, Code Pink women for peace. See <http://s3.amazonaws.com/codepink4peace.org/downloads/IraqiWomenReport.pdf>, p. 4.

<sup>239</sup>Ahmed Huda (2010): 'Iraq,' in Sanja Kelly and Julia Breslin, eds, (2010) Women's Rights in the Middle East and North Africa, p. 2.

Aaron D. Pina adds that during this period, many observers stated that Iraqi women benefited from certain legal privileges considered more progressive than in other countries in the Middle East.<sup>240</sup> However, in practice there were many restrictions facing them, especially for those who were in the opposition. Moreover, it is stated elsewhere in the literature that in spite of these positive points for women's rights, "women's rights remained a largely political tool to be reduced or expanded to suit political, social and economic interests of the ruling party."<sup>241</sup>

Giving the example of girls' education, the secular Ba'athist government made education compulsory for boys and girls until the age of 16. The Compulsory Education Law passed in 1976, however, was designed mainly to weaken the tribal influence and challenged the existing kinship construction inherited in Iraqi society that refused women's political participation.<sup>242</sup> In December 1979, the government passed further legislation, requiring the eradication of illiteracy.

During the 1980s, minor amendments continued to be introduced; because of the Iran-Iraq war in 1980, the "Iraqi government also passed labor and employment laws to ensure that women were granted equal opportunities in the civil service sector, maternity benefits, and freedom from harassment in the workplace."<sup>243</sup> The government also made some amendments to the personal status laws in 1978. For example, divorced mothers were given custody of their children until they reached the age of ten (previously seven for boys and nine for girls); custody could be extended to the child's fifteenth birthday. The child could then choose with which parent he or she wanted to live. Changes were also made to the conditions under which a woman could seek divorce and regulations concerning polygamous marriages and inheritance.<sup>244</sup>

Moreover, for economic and social reasons, women entered the workforce in remarkable numbers during the war, when female labor was needed in order to saturate the economic holes resulting from the large-scale mobilization or death of male breadwinners. In 1980, women made up 46% of all teachers, 29% of physicians, 46% of dentists, 70% of pharmacists, 15% of factory workers, and 16% of

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<sup>240</sup>Pina, Aaron D. (2006): Women in Iraq: Background and issues for U.S. policy. Congressional Research Service, p. 2, 3.

<sup>241</sup>Iraq Legal Development Project (ILDP) (2006): p. 2.

<sup>242</sup>Pina, Aaron D. (2006): p. 3.

<sup>243</sup>Human Rights watch report (2003): p. 2.

<sup>244</sup>Human Rights watch report (2003): p. 3.

governmental employees.<sup>245</sup> During the period, beginning in 1970, there were some positive changes in the laws related to women's rights. In addition, women were permitted to join the armed forces. A UN report issued in October 1991 described Iraq in the early and mid-1980s as a state which was rapidly approaching the standards of developed countries, with an elaborate public healthcare and education system, a modern telecommunications network, 24-hr. electrical power plants, water treatment facilities and potable water for the large majority of the population. Two-thirds of the country's food commodities as well as a considerable proportion of technical and medical equipment were imported.<sup>246</sup>

Despite this gain, thousands of widows were obliged by these situations to be the breadwinners, leaving them in a more difficult social and psychological situation. On the one hand, they took on the work burden, but, on the other hand, they were not yet accepted in a society that opposed the employment of women and could not tolerate them in the public sphere.<sup>247</sup> One of the most significant political events in this period was that Iraq signed the convention on the elimination of all forms of discrimination against women (CEDAW) in 1986.<sup>248</sup>

During the second phase of Ba'ath rule, the economic and social conditions deteriorated rapidly following the Gulf War and the imposition of United Nations economic sanctions (1990-2003), and consequently the situation of women deteriorated. Pina shows that economic, social, and political restrictions placed extreme strains upon women.<sup>249</sup>

To gain the support of tribal and religious leaders after the 1991 Shiite uprising, Saddam Hussein made a number of legal changes reducing women's rights, including the repeal of certain provisions from the 1959 personal status code. For instance, according to the new provisions men were allowed to practice polygamy without the first wife's consent and men who committed what was called "honor crimes" were

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<sup>245</sup>Saeid N. Neshat (1993): A Look into the Women's Movement in Iraq, Farzaneh, in: *Journal of Women and Research* Tehran, 6 (11), p. 56.

<sup>246</sup>Brown, Lucy & David Romano (2006): Women in Post-Saddam Iraq: (One Step Forward or Two Steps Back?), in: *NWSA Journal* 18(3), *Feminist Perspective on Peace and War: Before and after 9/11*, Johns Hopkins University Press, pp. 56-57. <http://www.jstor.org/stable/40071181>

<sup>247</sup>Pina, Aaron D. (2006): p. 4.

<sup>248</sup>Iraq Legal Development Project (ILDP) (2006), p. 4.

<sup>249</sup>Pina, Aaron D. (2006): p.4.

afforded leniency.<sup>250</sup> Moreover, with the deterioration of the education system, many women had to leave school for different reasons.<sup>251</sup>

In the 1990s, women were denied the rights already given to them in the 1980s; all rights were diminished when the system changed. During this time, all Iraqis suffered from repression, as well as the consequences of the wars. After the disastrous eight-year Iran-Iraq war, Saddam Hussein's regime moved away from Arab socialist ideals and closer to traditional interpretations of Islam in the region, including less tolerance for female autonomy in the public realm.<sup>252</sup>

During the Gulf War years, women in Iraq were perceived to be both the biological and cultural reproducers of a nation. For example, women were asked by Saddam Hussein's regime to produce future soldiers, while they were also increasingly being used as symbols against the previous, largely secular regime, as well as western culture and political imposition.<sup>253</sup> In 1983, Saddam urged women to increase their participation in the reproduction process. In 1987, women were encouraged to give birth much more frequently. Saddam stressed not just that every family should have at least five children (boys and girls) but that a family with fewer than four children should be severely rebuked.<sup>254</sup> In the later years of the war, women had to confine themselves to their traditional roles in the household and reproduction.<sup>255</sup>

Saddam was driving systematic campaigns to conduct killing, torture and rape of the people in southern and northern Iraq. He instigated Anfal<sup>256</sup> and Halabja<sup>257</sup> campaigns

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<sup>250</sup>Iraq Legal Development Project (ILDP) (2006), p. 48.

<sup>251</sup>Ahmed, Huda (2010): p. 20.

<sup>252</sup>Brown, Lucy & David Romano (2006): *Women in Post-Saddam Iraq: (One Step Forward or Two Steps Back?)*

<sup>253</sup>Al-Ali, Nadje (2006): *Reconstructing gender: Iraqi women between dictatorship, war, sanctions and occupation*: Institute of Arab & Islamic Studies: University of Exeter, p. 5.

<sup>254</sup>Efrati, Noga (1999): *Productive or reproductive? The role of Iraqi women during the Iraq-Iran War*, in: *Middle Eastern Studies* 35(2), pp. 27-44.

<sup>255</sup>Al-Jawaheri, Yasmin (2008): *Women in Iraq: The gender impact of international sanctions*. London: I.B. Tauris & Co Ltd, p. 29.

<sup>256</sup>The al-Anfal Campaign, known as the Kurdish Genocide, was a genocidal campaign against the Kurdish people led by the Iraqi regime leader in the final stages of the Iran-Iraq War.

<sup>257</sup>On 16 March 1988, the Iraqi government forces led an attack against Kurdish civilians in the city of Halabja. The attacking aircrafts began with canisters of chemical weapons, including mustard gas and the nerve agents sarin, tabun, and VX. The report from Voice of America of 15/03/2012 is available at <http://editorials.voa.gov/content/halabja-and-the-fate-of-its-killers-142768345/1493080.html>

and killed every man who refused to participate in the Iraq–Iran war, usually in front of his family. This period of time was the darkest period in Saddam’s rule for both men and women; the war ended in 1988. At the end of 1990, Saddam led the occupation of Kuwait. During this period, repression, rape, murder, abuse and intimidation causing permanent disability was conducted systematically on people, mainly the opposition. As stated in the Winning the Peace conference report of 2003, the women’s opposition was punished as aggressively as that of men. For instance, claiming to fight prostitution, police and army officers exercised a sexual offensive to collect information and elicit confessions from women.<sup>258</sup>

### **3.4 The Situation of Women in Iraq after the US Occupation**

The invasion of Iraq by allied (mainly US and UK) forces started with a grand promise for the Iraqi people, especially women. Sherifa Zuhur explains that the allied forces believed that women’s rights were the effective way to gain democracy in the Middle East.<sup>259</sup> On 9 April 2003, the war started and led to Saddam Hussein’s fall and the downfall of the Ba’aths. Jay Garner, the retired U.S. military figure, was dispatched to Iraq as an administrator. He started with a plan of holding early elections to allow the Iraqis to run their country, but he was soon replaced by Paul Bremer. When Bremer was in charge, he issued a decree which was called the de-Ba’athification law in May 2003. This law focused on firing Ba’ath members from government institutions, even individuals such as doctors and teachers who only joined Ba’ath for work-related reasons. In addition to that, Bremer’s first step was to nullify the Iraqi army. This had a negative effect on the situation and led to the establishment of many groups who were loyal to Saddam Hussein, former Ba’athists, and jihadists who organized themselves into resistance groups against the invasion and its supporters.<sup>260</sup> Peter McManmon identifies many problems that were behind this development, the most important one being the order to destroy the Iraqi army which to date has lacked the ability to contribute constructively to security

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<sup>258</sup>Women Waging Peace (2003): Winning the peace conference report: Women's role in post-conflict Iraq, p. 4. <http://www.wilsoncenter.org/sites/default/files/ACF34.pdf>

<sup>259</sup>Zuhur, Sherifa D. (2006): Iraq, women's empowerment, and public policy <http://www.strategicstudiesinstitute.army.mil/pubs/display.cfm?pubID=748>, p. 20.

<sup>260</sup>Ahmed, Mohammed M. A. (2010): America unravels Iraq: Kurds, Shiites and Sunni Arabs compete for supremacy. USA: Mazda. ISBN: 1568592779, 9781568592770, p. 27.

conditions.<sup>261</sup> Ahmed demonstrates that the conflict started and the resistance grew as a reaction to the Americans' introduction of their policy in Iraq with the aim of restructuring Iraq in the "American image."<sup>262</sup>

The Coalition Provisional Authority (CPA) in Iraq was the first authority formed in May 2003. Then, the Iraqi government council (IGC) was established in July 2003 to deal with daily affairs in the country, consisting of 25 members. However, the CPA remained as the first authority responsible for ruling the people.<sup>263</sup> According to Pina, three members of the IGC were women. One of them, Akila al-Hashimi, was killed in September 2003. She was replaced by another woman, Salama al-Khufaji, who worked with the other two women, Rajaa Khuzai and Songul Chapouk.<sup>264</sup> It is important to mention here that Iraq passed Decree 137 while Abdul Aziz al-Hakim was head of SCIRI.<sup>265</sup>

The CPA drafted the Transitional Administrative Law (TAL) for the country in March 2004.<sup>266</sup> Bremer notes that the CPA intended to establish laws of equality:

"First, the important takeaway is that the president insists that since the interim Iraqi government will have to write a new constitution, a new legal code, and oversee Iraq's economic reform, that governing body has to be fully representative of all Iraqis, north and south, Sunni, Shia, Kurd, Turkmen, and Christian."<sup>267</sup>

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<sup>261</sup>McManmon, Peter. D (2013): L. Paul Bremer: Managing the Iraq reconstruction effort III: Williams College.

[www.thepresidency.org/storage/documents/Calkins/McManmon.pdf](http://www.thepresidency.org/storage/documents/Calkins/McManmon.pdf), p. 4.

<sup>262</sup>Ahmed, Mohammed M. A. (2010): America unravels Iraq: Kurds, Shiites and Sunni Arabs compete for supremacy, p. 25, 28.

<sup>263</sup>Law of administration for the state of Iraq for the transitional period (2004): <http://www.refworld.org/docid/45263d612.html>.

<sup>264</sup>Pina, Aaron D. (2006): p. 6.

<sup>265</sup>(ISCI or SIIC): The Islamic Supreme Council of Iraq (in Arabic: المجلس الأعلى الإسلامي العراقي Al-Majlis Al-A'ala Al-Islami Al-Iraqi). Previously, the party was known as the Supreme Council for the Islamic Revolution in Iraq (SCIRI), an Iraqi Shia Islamist political party.

<sup>266</sup>Law of administration for the state of Iraq for the transitional period (2004): <http://www.refworld.org/docid/45263d612.html>.

<sup>267</sup>Paul Bremer quoted in: Stigall, Dan E. (2006): Iraqi civil law: Its sources, substance, and sundering, in: Journal of Transnational Law & Policy 16(1), pp. 1-72, p. 63.

According to Stigall, the CPA aimed to rebuild a democratic representative government in Iraq that offered its people equality, protection and progress in all areas of life. To ensure that Iraq was not as dangerous to its neighbors or to international security, a law was renewed which required passing a new constitution for the Iraqi people.<sup>268</sup> In August 2005, George Bush declared that “we are watching an amazing event unfold, and that is the writing of a constitution which guarantees minority rights, women’s rights, freedom to worship in a country that had only known dictatorship.”<sup>269</sup> However, different directions and opinions emerged about the situation of women after the invasion of Iraq in 2003. Some cited positive achievements and others focused on the negative side.

The US started its support of women with an economic plan and programs led by NGOs. Iraqi and Arab feminists, western feminists, democracy activists, and some US policymakers referred to the importance of legal reform because they believed that through the law the state could assert control over family and society.<sup>270</sup> Such reform strengthened the rule of law in the society. Elizabeth Cheney declared in 2005:

"Our enemies are offering a vision of the world in which women are no better than slaves or chattel; in which fathers and brothers can murder their female relatives for violating the family honor; in which little girls can't go to school, and can be forced to marry at 9 or 10 or 11. The women of the Broader Middle East will not stand for this and are fighting to turn their nations' faces toward the future. America is proud and honored to stand with them."<sup>271</sup>

Cheney declared that the US believed that women’s rights were the key to democracy in the Middle East. The policy of empowering women was an important strategy used by the US in Iraq.

The Coalition Political Authority (CAP) tried to improve the living situation of women through introducing many programs into women's lives, especially those

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<sup>268</sup>Stigall, Dan E. (2006), p. 63.

<sup>269</sup>Jawad, Yasmine: The plight of Iraqi women, 10 years of suffering, p. 6.

[http://www.gicj.org/iraq\\_conference\\_speeches/Dr\\_Yasmin\\_Jawad\\_Presentation.pdf](http://www.gicj.org/iraq_conference_speeches/Dr_Yasmin_Jawad_Presentation.pdf).

<sup>270</sup>Zuhur, Sharif (2006): p. 21.

<sup>271</sup>Zuhur Sharif (2006): p. 20.



geared towards raising women's awareness of their rights.<sup>272</sup> The CAP reserved 18% of the Iraqi governing council seats for women as a step towards empowering women. This came with support from UN Security Council Resolution 1483, which declared that women's circumstances would get better through the rule of law, the "rule of law that affords equal rights and justice to all Iraqi citizens without regard to ethnicity, religion, or gender."<sup>273</sup>

The most considerable achievement during the US invasion was the amended constitution ratified under the occupation. The constitution was reformulated in a national referendum on October 15, 2005. The new constitution contained laws and regulations which left a big space for conservative religious clerics, men, and parties to interpret it according to their interests. Moreover, it worsened women's situation and violated their rights through the abolition of old laws which had protected women in the past, especially the personal status law.<sup>274</sup> Still, before the election, the US and other supporters tried to empower women by improving political participation, raising their awareness and supporting their participation in the constitution drafting process.<sup>275</sup> Different organizations provided support for Iraqi women to be able to fight for their rights, through the provisions in the new constitution which guaranteed them 25% of the seats in parliament. This is believed to be a significant achievement in distinguishing the Iraqi women from those in other Muslim countries.<sup>276</sup> This achievement was declared in Article 40 and was one of the new constitutional amendments.<sup>277</sup> It was stated by Paula J. Dobriansky, cited in Al-Ali and Pratt, that "[w]e are working to advance the interests of Iraqi women in every area, from human

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<sup>272</sup>Alexandra, Kylie: After the invasion: An outlook for the future of Iraq's women.

Geography/Women's Studies 494: Research Project, p. 10.

<http://hilo.hawaii.edu/academics/hohonu/documents/Vol07x02AfterTheInvasion.pdf>.

<sup>273</sup>Alexandra, Kylie, p. 8; United Nations Security Council 1483 (2003): Adopted by the Security Council at its 4761st meeting. <http://www.iaea.org/newscenter/focus/iaeaIraq/unsc1483.pdf>.

<sup>274</sup>Al-Azzawi, Suad N. (2008): Deterioration of Iraqi women's rights and living conditions under the occupation, p. 6 <http://www.globalresearch.ca/deterioration-of-iraqi-women-s-rights-and-living-conditions-under-occupation/7785>.

<sup>275</sup>Al-Ali Nadjie, Nicola Pratt (2009): What kind of liberation: Women at the occupation of Iraq. University of California Press, p. 110.

<sup>276</sup>Coleman, Isobeal (2006): Women, Islam, and the new Iraq, in: Foreign Affairs 85(1), pp.24-36, p.33.

<sup>277</sup>Fischer-Tahir, Andrea (2010): Competition, cooperation and resistance: Women in the political field in Iraq, in: International Affairs 86, pp. 1381-1394, p. 1388.

rights to political and economic participation to health care and education."<sup>278</sup> Also, Janet W. demonstrated that Paul Bremer constantly emphasized the importance of including women in different fields previously dominated by men. The results of Al-Ali and Pratt's study on the effects of the invasion on Iraqi women showed that in spite of the American policy to 'save' and empower women, they failed to offer general security, the first step toward empowering women. This effectively returned women to the "hyper-patriarchy" and the conservative Islamic notions promoted by some parties, which constrained women severely.<sup>279</sup> Pina explains that in 2003, some observers stated clearly that Iraqi women did not have an adequate presence in the Iraqi ministries and judicial infrastructure.<sup>280</sup> In December 2003, Rajaa Khuzai and Songul Chapouk expressed their frustrations with the CPA's efforts to ensure women's rights. Many writers, including Baban, demonstrated that women were the losers in the aftermath of the invasion; Baban referred to the fact that they lost most of the achievements that they had fought so hard to get. On May 10, the National Assembly appointed a 55-member committee to draft the permanent constitution that was completed on August 15, 2005. This can be seen in the new and current constitution in Iraq, which contains many articles that are considered restrictions of women's rights.<sup>281</sup> These articles shall be reviewed and discussed in the next section.

### **3.5 Iraqi Kurdistan**

The southern part of greater Kurdistan is a federal region in Iraq called Iraqi Kurdistan and ruled by the Kurdistan Regional Government (KRG). The population of Iraqi Kurdistan is composed of a majority of Kurds and many other different minorities like Arabs and Turkmen. In addition, there are a number of different religions represented (Muslim, Christian, Shabak, Yazidi, Sabeen, Jewish and Zoroastrian), as well as different sects and schools of thought (Sunni, Shia'a, Alevis, Ahl-i haqq). The majority of Kurds at nearly 75% are Muslim and follow Sunni Islam. The Kurds have been among the more liberal Muslims in comparison with other

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<sup>278</sup>Al-Ali Nadjé, Nicola Pratt (2009): What kind of liberation, p. 57.

<sup>279</sup>Al-Ali Nadjé, Nicola Pratt (2009): What kind of liberation, p. 81-82.

<sup>280</sup>Pina, Aaron D. (2006): p. 7.

<sup>281</sup>Baban, Mubejel (2006): Drafting the constitution and family laws in 1959, in: WLUML Occasional Papers 15, published by Women Living under Muslim Laws, Nottingham, UK.

components of the Iraqi population. Kurdish women are viewed as more liberated than others. For instance, in Iraq they oppose the tradition of wearing the *abbaye*, the traditional women's garment, and for a long time have occupied their share of the labor force.

### **3.5.1 Political System in Iraqi Kurdistan: Stages of Resistance**

The agreement that guaranteed the Kurds a state of their own was the Treaty of Sevres.<sup>282</sup> It was concluded on 10 August 1920, as a result of the overall mass struggle throughout the nineteenth century. Article 62 of the Treaty of Sevres called for "a scheme of local autonomy for the predominantly Kurdish areas."<sup>283</sup> But, the dream of an independent Kurdish region did not materialize, and Greater Kurdistan was broken up into areas under the jurisdiction of three or four countries nascent in the region. The victorious allies that had agreed to this treaty retreated, and Britain, which showed enthusiasm and encouragement for the independence of Kurdistan, dropped out too. The state of "Kurdistan," or "Greater Kurdistan," was divided into four parts governed by Turkey, Iraq, Iran, and Syria, and thus the narrative of Kurdish resistance was started.<sup>284</sup>

The province of Mosul was a part of the Iraqi state that was ruled by British mandate. The instable policy of the British mandate toward the Kurds played a big role in the growth of the Kurdish national movements, through encouraging them to establish Kurdish autonomy or an independent Kurdish state in the province of Mosul. Bengio identifies three main stages in the history of Kurdish struggles in Iraq. However, I will add three more three stages that can be viewed as influential in the history of the Kurdish struggle. According to Bengio, the first stage (1918-1946) was the emergence

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<sup>282</sup>The Treaty of Sevres was a prominent result of the First World War, where it was an agreement by the victorious Allies with the Government of Istanbul on a range of items to define the border and the organizational structure of the remains of the Ottoman Empire. The most important of these items and texts were the proposed solutions for the issue of nationalism in general and for the Kurdish issue in particular. See: McDowall, David (2004): *A Modern History of the Kurds*, p. 13, 240.

<sup>283</sup>See: Treaty of peace between the Allied and Associated Powers and Turkey (1920), in Hadji, Philip S. (2009): *The case for Kurdish statehood in Iraq*, in: *Case Western Reserve Journal of International Law* 41(2), pp. 513-541.

<sup>284</sup>Kelly, Michael J. (2008): *Ghosts of Halabja: Saddam Hussein and the Kurdish genocide*. USA: Praeger Security International, p. 17; McDowall, David (1996): *The Kurds: The minority rights group international*. Report No. 23. See: <http://www.kurdipedia.org/documents/74457/0001.PDF>, p. 13, 240.

of unplanned Kurdish movements; they lacked a defined political direction and included revolts by non-united tribes, such as the Barzani and Hiva parties in 1945.<sup>285</sup> Also, Shaikh Mahmud Barzanji led many revolts between 1919 and 1922 and established a Kurdish kingdom for a short period.<sup>286</sup> The second stage (1946-1961) witnessed the establishment of the Kurdistan Democratic Party (KDP) in 1946; after that point, the Kurdish movement tended to have a clear organizational and ideological direction.<sup>287</sup> After the Abd al-Karim Qasim coup in 1958, Mustafa Barzani was welcomed as a Kurdish leader of the KDP party and was granted legal status in 1960. The situation changed when Abd al-Karim Qasim declared war against the Kurds.<sup>288</sup> On 11 September 1961, Mustafa Barzani announced a proclamation to all Kurds urging them to start a Kurdish revolution; these revolutions continued, in a variety of forms, until 2003.<sup>289</sup>

In the third stage (1961-1968), the Kurdish national movements became stronger despite the divisions between the Kurdish leaders. Bengio explains that "[t]he Kurds took advantage of different transitional periods characterized by political vacuum and of the central government's weakness to press their claim." She points out that the fate of the Kurdish struggle is conjoined with the political situation in Iraq.<sup>290</sup> In what I would identify as a fourth stage (1968-1991), the Kurds were under Ba'ath party rule; at the beginning, the Ba'ath were concerned about the stability of the country and therefore decided to agree to the Kurds' demands. In 1970, an agreement was made between the Iraqi government and the Kurds, and through this agreement the Kurds received their autonomy for four years (1970-1974). Following from this, the fifth stage then saw their de facto autonomy in the region, and was considered a 'golden age.' By 1974, key parts of the agreement had not been fulfilled, leading to disputes. On the other side, in order to stop the Iranian support of the Kurds, the Iraqi government signed the Algiers Agreement with Iran, in which they settled land disputes between the two parties. As time went on, the relations between the

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<sup>285</sup>Bengio, Ofra (2012): *The Kurds of Iraq*, pp.11-13.

<sup>286</sup>Kelly, Michael J. (2008): *Ghosts of Halabja*, p. 17.

<sup>287</sup>Bengio, Ofra (2012): *The Kurds of Iraq*, p. 13.

<sup>288</sup>Kelly, Michael J. (2008): *Ghosts of Halabja*, p. 18.

<sup>289</sup>Gareth Stansfield (2006): *The Kurdish question in Iraq, 1914-1974*, In: *The Middle East Online: Series 2: Iraq 1914-1974: Gale Digital Collection*, p. 3.

<sup>290</sup>Bengio, Ofra (2012): *The Kurds of Iraq*, p. 13.

government and the Kurds became more complex. Saddam drove many campaigns killing and raping people in the South and North of Iraq.<sup>291</sup> In northern Iraq and during the period between 1971 and 1980, the Faili (Shia'a) Kurds were forced out of Iraq by the Iraqi government. Also, during the 1980 Iran–Iraq war, Saddam drove the Anfal and Halabja campaigns in 1988, as mentioned previously in this chapter. Iraqi government airplanes used chemical weapons on Halabja city, where between 4,000 and 5,000 people were killed. During the many Anfal campaigns of systematic killing and chemical weapons use, some 2,000 villages and the surrounding rural area were damaged, all of which were Kurdish, and about 100,000 to 200,000 women, men, children and even infants were killed.<sup>292</sup>

The Kurdish movements were quiet until the spring uprising of 1991, considered the most important and difficult point in Kurdish history. In August of 1990, Saddam invaded Kuwait; as a result of the Kuwait invasion, the international forces imposed economic sanctions on Iraq. What followed was the sixth stage (1991-2005), in which the Iraqi government lost its control over the population. This led to the popular uprising started on 4 March 1991 with the support of Kurdish forces (Peshmerga); however, Saddam did not keep silent – he moved the Republican Guard, heavy weapons and tanks to the North in order to suppress the uprising. This led to the escape of approximately 2.5 million people into the mountains, causing a humanitarian crisis. In the middle of April, and with pressure from the international community, allied forces announced the establishment of a 'safe haven' and a no-fly zone at the 36th parallel, and the refugees returned.<sup>293</sup> It seems that the Kurds finally achieved remarkable progress in 1992, when a parliamentary and presidential election established the Kurdistan Regional Government (KRG). The KRG was controlled by the Kurdistan Democratic Party (PDK) and the Patriotic Union of Kurdistan (PUK); they fought a bloody war in 1994-1998 for power over Iraqi Kurdistan. The KDP controlled Irbil and the PUK controlled Sulaimani. The Washington Agreement signed in 1998 by the two parties was a solution for ending the civil war. After the agreement, each party worked to develop its own part of the region.

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<sup>291</sup>Gareth Stansfield (2003): *Iraqi Kurdistan: Political development and emergent democracy*, Taylor and France e-library, 0-203-39830-0, pp. 76-77.

<sup>292</sup>Kelly, Michael J. (2008): *Ghosts of Halabja*, p. 32.

<sup>293</sup>Gareth Stansfield (2003): *Iraqi Kurdistan*, p. 95.

In 2003 when the US invasion started in Iraq, Kurdistan's official armed forces (Peshmerga) fought alongside the coalition to liberate Iraq from Saddam Hussein's rule. Many changes occurred in Iraq and the two parties took part in Iraq's political process and represented the KRG; they therefore decided to create an alliance in the form of a unity government, and "appointed the KDP's leader, Massoud Barzani, head of the regional government, and sent the PUK's leader, Jalal Talabani, to Baghdad as president of the national government."<sup>294</sup>

The 2003 US invasion of Iraq and the following political transformations resulted in the endorsement of a new constitution in 2005. It established two governments,<sup>295</sup> the central government in Baghdad and the KRG in the North of Iraq. Thus, the new Iraqi constitution identifies Iraqi Kurdistan as a 'federal entity' of Iraq and an autonomous region governed by the KRG. Therefore, Iraqi Kurdistan is a parliamentary political system with a regional assembly that consists of 111 seats.

The two parties PDK and PUK shared the power in the KRG and also in Baghdad until 2009, when a new party emerged by splitting from the PUK party, called the Gorran party, the 'party of change.' In 2013 in an election for the parliament of Iraqi Kurdistan, the Gorran party came in second and the PUK came in third.<sup>296</sup> This affected the two parties' power distribution. Gorran was not the only party competitor; other contenders were the services and reform movement, the Kurdistan Islamic Union (KIU), the Islamic Union (Yekgirtuy islami), the Kurdistan Islamic Movement (IMK), the young generation movement and the Coalition for Democracy and Justice

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<sup>294</sup>Kelly, Michael J. (2010): The Kurdish Regional Constitution within the Framework of the Iraqi federal constitution: A struggle for sovereignty, oil, ethnic identity, and the prospects for a reverse supremacy clause. In *Pena State Law Review* 114 (3), pp. 707-808, p. 723.

<sup>295</sup>See Articles 117 and 121 in the Iraqi constitution, 2005.

<sup>296</sup>Leezenberg, Michiel (2017): Iraqi Kurdistan: A Porous Political Space. in: *Anatoli*. 8. pp. 107-131. URL: <http://journals.openedition.org/anatoli/608>; DOI: 10.4000/anatoli. 608; Iraqi Kurdistan opposition party beats PUK in elections (2013): <https://www.bbc.com/news/world-middle-east-24362864>; Hama, Hawre Hasan (2017): Partisan Armed Forces of Kurdistan Regional Government. In: *Journal of South Asian and Middle Eastern studies* 41(1).

(CDJ), whose influence as competitors for power has grown in recent years.<sup>297</sup> Women played significant roles alongside men during wars and crisis, but they were also affected by the political policies from the past up to the present day; their roles are discussed next.

### **3.5.2 Historical View of Kurdish Women's Activities, Roles and Positions**

Kurdish women worked hard for their autonomy over the past century, but due to the political situation their aim was mostly to strengthen and support men's roles as well as nationalism. Neither women's rights nor their status and movements were their concern while they were preoccupied with the autonomy of Kurdistan. Shahrazad Mojab emphasizes how Kurdish women's movements worked to reinforce Kurdish nationalism.<sup>298</sup>

Kurds of southern Kurdistan were subjected to Iraqi policies concerning different aspects including economics, politics and culture; the Kurds were neglected in these policies and that is the main reason they have been fighting for their autonomy since their incorporation into the Iraqi state in 1923. This obviously led to neglecting women's rights well.<sup>299</sup> In Mojab's view, the feeling and awareness of nationalism was perceptible behind the Kurdish women's movements, as they disregarded their own rights. Mojab states that "women were involved in the public sphere in support of the nationalist cause, rather than as activists in a women's movement or leaders or active cadres of the ruling party."<sup>300</sup> This fact is supported as well in the work of Choman Hardi, when she describes Kurdish women as sacrificing themselves for

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<sup>297</sup>Leezenberg, Michiel (2017): Iraqi Kurdistan: A Porous Political Space. in: *Anatoli*. 8. pp. 107-131. URL: <http://journals.openedition.org/anatoli/608>; DOI: 10.4000/anatoli. 608; Iraqi Kurdistan opposition party beats PUK in elections (2013): <https://www.bbc.com/news/world-middle-east-24362864>; Hama, Hawre Hasan (2017): Partisan Armed Forces of Kurdistan Regional Government. In: *Journal of South Asian and Middle Eastern studies* 41(1).

<sup>298</sup>Mojab, Shahrazad (2001): Women and nationalism in the Kurdish republic of 1946. In: *Women of a non-state nation: The Kurds*. Costa Mesa: MAZDA Publishers, p. 8.

<sup>299</sup>Al-Ali Nadjje, Nicola Pratt (2011): Between nationalism and women's rights: The Kurdish women's movement in Iraq, in: *Middle East Journal of Culture and Communication* 4, pp. 337–353, p. 399.

<sup>300</sup>Mojab, Shahrazad (2001): Women and nationalism in the Kurdish republic of 1946. In: *Women of a non-state nation: The Kurds*. Costa Mesa: MAZDA Publishers.

society. The interesting point is that Kurdish women exercise what Burstow calls “selflessness,” emphasizing that woman put others’ interests before their own; these others may be family members or their society. Thus, women seem to feel happy when they put others before themselves, when they do good things for others.<sup>301</sup> So the Kurdish women sacrificing themselves for their family and society.<sup>302</sup>

Mojab finds that Kurdish women were controlled by the principles, attitudes and interests of women in the respective dominant country (Turks, Arabs, Persians). These majorities imposed their "patriarchal nationalism" with the help of the state’s officially sanctioned feminist movements.<sup>303</sup>

Moreover, the Iraqi government did nothing to support Kurdish women. Anwer Ibrahim argues that the Iraqi government neglected the Kurdish people and Kurdish women in particular, for instance when it established the Iraqi federal women's union but ignored the Kurdish women’s union. Also, it did not permit Kurdish women to enjoy the simple right of establishing any organization they wished.<sup>304</sup>

It is interesting to summarize the main activities of the women’s movement in Kurdistan and compare different time periods. The first Kurdistan women's union was established in December 1952 to deal with women’s issues. In October 1959 in Baghdad, the Democratic Party elected Ms. Zekia Ismail as a member of its supreme commission for inspection and supervision of the party, and Ms. Nahida Shaikh Salim became a member of the central committee at a conference held in May 1960 in Baghdad. Ibrahim illustrates that these events were considered a big change in women’s living situation that showed the importance of women’s participation in decision making at the party level. In one year, by September 1961, the Kurdish women’s union made efforts to encourage women and raise their awareness through many campaigns, focused on achieving the goal of the revolution in Kurdistan.<sup>305</sup> In

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<sup>301</sup> Hardi, Choman (2011): *Gendered Experiences of Genocide: Anfal Survivors in Kurdistan-Iraq*. p. 4-5. Routledge.

<sup>302</sup> Hardi, Choman (2011): *Gendered Experiences of Genocide: Anfal Survivors in Kurdistan-Iraq*. p. 4-5. Routledge.

<sup>303</sup> Mojab, Shahrzad (2001): *Women and nationalism in the Kurdish republic of 1946*, p. 8.

<sup>304</sup> Ibrahim, Anwer (2012): *Promoting women's participation in decision-making at the local level*, p. 95, 96.

<sup>305</sup> Ibrahim, Anwar A. (2012): *Promoting women's participation in decision-making at the local level*, p. 95, 96.



1970, a Kurdistan autonomy agreement was made with the Iraqi government. In 1974, the Kurds' conflict with the Iraqi government began because due to the 1970 agreement's collapse, and Kurdish women were the greatest losers.<sup>306</sup> In 1980, according to Iraqi national assembly law No. 55, Iraqi women were given the right to vote. 6.4% of the parliament were women, whose total number was 250 members. In 1989, the number was raised to 9.2%, but Kurdish women did not have parliamentary seats, nor did they have a chance to be elected to the national parliament.<sup>307</sup> During Ba'ath rule, women's movements, particularly Kurdish men's and women's movements, were restricted and suppressed by the Ba'ath regime. Ibrahim points out that political processes in Iraq during the Ba'ath regime (Saddam's era) resulted in weak participation by Kurdish women in voting and elections. In addition, the Ba'ath party restricted parliamentary membership. The Ba'ath chose only their supporters to be elected by voters, and no one could participate in any election if they did not already belong to the party. According to human rights laws and international conventions, these events were considered forms of non-democracy, pluralism and against freedom of expression.<sup>308</sup> The ruling party further used women's rights as a means to achieve its political, social, and economic objectives.<sup>309</sup>

Hardi explains that Kurdish women participated in the national liberation in different ways; they started with helping the Peshmerga and even fought beside them. Women's movements began to appear after 1992. As Hardi emphasizes, Kurdish women began their struggle for more gender equality after they gained national liberation.<sup>310</sup>

### **3.5.3 Women in Iraqi Kurdistan Society: Models of Resistance**

Throughout history, Kurdish women did not enjoy many rights despite their remarkable achievement in building the Kurdish society. The biggest reason was that

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<sup>306</sup> Al-Ali, Nadjé (2007): *Iraqi Women: Untold stories from 1948 to the present*, Zed book. New York. USA, p. 124.

<sup>307</sup> Ibrahim, Anwar A. (2012): *Promoting women's participation in decision-making at the local level*, p. 97.

<sup>308</sup> Ibrahim, Anwar A. (2012): *Promoting women's participation in decision-making at the local level*, p. 97.

<sup>309</sup> Fischer-Tahir, Andrea (2010): *Competition, cooperation and resistance*, p. 1382.

<sup>310</sup> Hardi, Choman (2013): *Women's activism in Iraqi Kurdistan: Achievements, shortcomings and obstacles*, in: *Kurdish Studies* 1(1), pp. 44 – 64.

they were women of a non-state nation. In spite of this, however, Kurdish women participated in war, politics, economics and even as leaders of tribes and cities. Bruinessen argues that Kurdish women played various roles in high positions even in the military, which makes them different from others in the dominant and neighboring nations: Arabs, Turks, and Persians.<sup>311</sup>

It has been stated repeatedly in the literature that women played a major role in building Kurdistan. Mojab,<sup>312</sup> Bruinessen,<sup>313</sup> and Ibrahim<sup>314</sup> report that Kurdish women held leading positions as leaders of tribes and many wars. There are many examples of women in power in Kurdish history, such as Adela Khanum, a widow who was the uncrowned queen of Shahrizur. She stood by the British mandate in 1919, when Sheikh Mahmud of Sulaimani rebelled.<sup>315</sup> Also, Hapsa Khan was the wife of Sheikh Qadir Hafid, one of the famous men that had played a role in the revolution started by Sheikh Mahmud against the British forces. Hapsa Khan played numerous roles in Kurdish society, such as encouraging women to become educated as a way to gain more freedom, and creating a special place of refuge for other Kurdish women who were victims of injustice and social cruelty in the city of Sulaimani and its suburbs. She established an evening school for women in the region. She was active during Sheikh Mahmud's autonomous government in the early 1920s and was a supporter of the nationalist movement. She established what is considered the first Kurdish women's organization in Iraq to solve their problems and offer them financial assistance. Her visitors ranged from writers and artists to men of high rank. In an interview with Drakshan Jalal Ahmad (Sheikh Mahmud's niece) published in *Kurdistan in the Shadow of History*, Drakshan Jalal mentions that Hapsa Khan said,

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<sup>311</sup>Bruinessen, Martin Van (2001): From Adela Khanum to Leyla Zana: Women as political leaders in Kurdish history. In: Shahrazad Mojab, *Women of a Non-State Nation: The Kurds*. Costa Mesa: MAZDA, pp. 95-112.

<sup>312</sup>Mojab, Shahrazad (2001): *Women of a non-state nation: The Kurds*. Costa Mesa: MAZDA Publishers.

<sup>313</sup> Bruinessen, Martin van (2001): From Adela Khanum to Leyla Zana: women as political leaders in Kurdish history, In: Shahrazad Mojab, *Women of a Non-State Nation, The Kurds*, MAZDA Publisher, p. 95.

<sup>314</sup>Ibrahim, Anwer (2012): Promoting women's participation in decision-making at the local level, p.99.

<sup>315</sup>Bruinessen, Martin van (2001): From Adela Khanum to Leyla Zana: women as political leaders in Kurdish history, In: Shahrazad Mojab, *Women of a Non-State Nation: The Kurds*. Costa Mesa: MAZDA, pp. 95-112, p. 98.

"There is no difference between men and women...so I am going to continue..."<sup>316</sup> Hapsa Khan founded the first women's association in 1930 named the Kurdish Women's Association which was under her direct supervision, and served as secretary of the association. The Association defended the rights of women in the very beginning of the last century in the Middle East. In 1930, Hapsa Khan sent a political letter to the League of Nations calling for the rights of the Kurds. When the Republic of Kurdistan was founded in Muhabad in 1946 by Qazi Mohammed, Hapsa Khan showed her support for the Republic. It is evident that she had a strong character and fought for what she believed in."<sup>317</sup>

Another fact can be observed concerning Kurdish women and refers to the importance of women's roles and their abilities in the society. There have been many examples in Kurdish society about men named after or known by their mothers, such as the examples mentioned by Bruinessen.<sup>318</sup> Mihamad Shemse was called by his mother's name Shemse, a chieftain, rather than by his father's name, Mihamad, who was murdered. Another example was Emin, the son of Perikhan Khatun, the woman who led the Raman tribe; he was called Emine Perikhan, and there are many other examples.<sup>319</sup> This phenomenon can be also observed at present.

Anter<sup>320</sup> writes in Mojab's book that Kurdish women had always enjoyed gender equality in Kurdish society; in his view, this equality was obvious because women could be chieftains of tribes. Anter and Farzaneh<sup>321</sup> emphasize that the women who

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<sup>316</sup>Bruinessen, Martin van (2001): From Adela Khanum to Leyla Zana: women as political leaders in Kurdish history, In: Shahrazad Mojab, *Women of a Non-State Nation: The Kurds*. Costa Mesa: MAZDA, pp. 95-112, p. 9; See: Hapsa Khani Naqib (1891-1953): 2012-0412 .[www.kurdsat.tv/news.php?id=40&type=biography](http://www.kurdsat.tv/news.php?id=40&type=biography); Ibrahim, Anwer (2012): p. 99.

<sup>317</sup>See: Hapsa Khani Naqib (1891-1953): 2012-0412. [www.kurdsat.tv/news.php?id=40&type=biography](http://www.kurdsat.tv/news.php?id=40&type=biography)

<sup>318</sup>Bruinessen, Martin van (2001): From Adela Khanum to Leyla Zana: women as political leaders in Kurdish history, p. 100.

<sup>319</sup>Bruinessen, Martin van (2001): From Adela Khanum to Leyla Zana: women as political leaders in Kurdish history, p. 100.

<sup>320</sup>Bruinessen, Martin van (2001): From Adela Khanum to Leyla Zana: women as political leaders in Kurdish history, p. 100.

<sup>321</sup>Neshat, Saeid N. (1993): A look into the women's movement in Iraq, in: Farzaneh, *Journal of Women and Research* 6(11)11, pp. 54-65.

had enjoyed leading positions in Kurdish society obtained this high status through their birth or by marriage.

However, some writers argue differently: for instance, Bruinessen points out that Karahan<sup>322</sup> demonstrated that Kurdish women were respected as mothers but not as people. Fisher-Tahir<sup>323</sup> also agrees that in all the roles of marriage, property, mothers, etc., the man is accepted as a person and the woman as belonging to this person. Bruinessen reminds us that, "The respect society grants them does not prevent women from frequently being beaten up by their own male relatives (husbands, fathers, brothers, in-laws or even sons)."<sup>324</sup>

### **3.5.4 Family and Gender Relations in Iraqi Kurdistan**

The family in the Kurdish society consists of a father, mother, children, and sometimes grandmothers or grandfathers, and in some families aunts or uncles are also living in the family home.<sup>325</sup> Fischer-Tahir mentions that some of the households in Iraqi Kurdistan contain first-degree relatives, but by marriage the family consists of the parents, children and the sisters of the father.<sup>326</sup> Marriage in Kurdish society follows the Islamic rules that put certain restrictions on marriage, for instance restrictions related to milk kinship which is considered the same as blood relationship. However, according to traditions and laws established based on the Islamic principle, marriage is permissible to cousins and second cousins.<sup>327</sup>

I find it significant to deepen the discussion on marriage in the Kurdish society, but before that it is important to mention that the Kurdish society is not a homogenous group, and there is a diverse range of religions and languages peacefully coexisting in

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<sup>322</sup>Bruinessen, Martin van (2001): *From Adela Khanum to Leyla Zana: women as political leaders in Kurdish history*, p. 104.

<sup>323</sup>Fischer-Tahir, Andrea (2009): *Brave men, pretty women? Gender and symbolic violence in Iraqi Kurdish urban society*. Berlin: Europaeisches Zentrum für Kurdische Studien, p. 60.

<sup>324</sup>Bruinessen, Martin van (2001): *From Adela Khanum to Leyla Zana: women as political leaders in Kurdish history*, p. 100.

<sup>325</sup>Robson, Barbara (1996): *Iraqi Kurds their history and culture*, Refugee fact sheet series, No. 13. Published by the refugee service center, p. 3.

<sup>326</sup>Fischer-Tahir, Andrea (2009): *Brave men pretty women: gender and symbolic violence in Iraqi Kurdish urban society*. Europaisches zentrum fur kurdishe studien, p. 45.

<sup>327</sup>Hanse, Henny Harald (1961): *The Kurdish woman's life: field research in a Muslim society*. Andelsbogtrykkeriet. Denmark, p. 115.

the society. Ayse Betul Celik finds that it is difficult to describe the Kurds because of their variety and the differences in lifestyles. There is also another important reason for that, namely that the Kurds have never lived as an independent nation and have been subjected to different rules over the course of history. The variety of languages, cultures, religions, and lifestyles has led to a variety of customs and traditions, but the majority of Kurds are Muslim and hence most of them follow the Islamic rules of marriage.<sup>328</sup>

The preferable form of marriage is arranged between cousins, specifically marriage to the daughter of the groom's father's brother (amoza) or the daughter of his father's sister (purza), and then in the second degree the cousin from his mother's side, namely his mother's brother's daughter (xaluza) or his mother's sister's daughter (purza).<sup>329</sup> It has been noted by Fredrik Barth (1953),<sup>330</sup> Henny Hansen (1961),<sup>331</sup> Martin van Bruinessen (1992),<sup>332</sup> and Fischer-Tahir (2009)<sup>333</sup> that these types of marriage can be seen among tribal Kurds and is a type of patrilineal alliance between the Kurdish tribes. This type of marriage is considered preferable in the Arab Middle Eastern countries, described by Arab people as "close to the bone." In Turkey, however, marriage between patrilineal cousins is considered to confuse the social order, because "disputes over the relationship between the married patrilineal cousins may lead to a split between the brothers, who are both the closest of enemies."<sup>334</sup>

The other type of marriage is the marriage of exchange taking place between families. Two families exchange daughters, where the family of the desired bride can ask for a

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<sup>328</sup>Ayşe Betül Çelik (2012): *Handbook of Ethnic Conflict: International Perspectives: An international academy for intercultural research book*. Edited by Dan Landis, Rosita D. Albert. Springer, pp. 243-244.

<sup>329</sup>Hansen, Henny Harald (1961): *The Kurdish woman's life: field research in a Muslim society*. Andelsbogtrykkeriet. Denmark, p. 115.

<sup>330</sup>Barth, Fredrik (1953): *Principles of Social Organization in Southern Kurdistan*. IBN. 0404164234, 9780404164232, p. 69.

<sup>331</sup>Hansen, Henny Harald (1961): *The Kurdish woman's life: field research in a Muslim society*. Andelsbogtrykkeriet. Denmark, p. 115.

<sup>332</sup>Martin van Bruinessen (1992)

<sup>333</sup>Fischer-Tahir, Andrea (2009): *Brave men pretty women: gender and symbolic violence in Iraqi Kurdish urban society*. Europaisches zentrum für kurdische studien, p. 45.

<sup>334</sup>Lindholm, Charles (2008): *The Islamic Middle East: Tradition and Change*. Blackwell. USA, p. 124.

bride from the groom's family for the desired bride's elder brother.<sup>335</sup> Fischer-Tahir refers to this as 'a woman for a woman' (jin ba jin), or in other words the exchange of a man's sister for his wife-to-be: exchanging one woman for another. This type of marriage is "widespread among tribal and non-tribal Kurds."<sup>336</sup> It has been described by Fischer-Tahir<sup>337</sup> and Suad Joseph<sup>338</sup> as a means used by a man or a tribe to effect a reconciliation between men from another family or tribe during wars and blood disputes. Fischer-Tahir<sup>339</sup> explains another form of marriage called a changing marriage: an adult woman is exchanged for a young girl (Gewre be picuk). A 'woman for blood' (jin be xwen), it is a type of marriage arranged in order to stop a quarrel that has already ended in bloodshed and a man's death, where the weaker family gives a woman to the other family. Fischer-Tahir also discusses polygamy in the Kurdish society, where a man marries more than one woman (frejin). This type of marriage occurs for many reasons, one of these being the man's wealth: A wealthy man is able to provide for a second or third wife. Another reason for polygamy discussed by Henny Harald Hanse<sup>340</sup> is for a man to marry a second wife who is believed to be able to bear him sons if he has only daughters from the first wife. Hanse points out that most of the men who take a second wife are asked by the family or father of the second wife to divorce the first wife; in this case, the children of the first wife remain in the parental house. Marrying a second wife has been justified by many reasons, for instance when a man marries his brother's wife (sister-in-law) after the brother's death in order to take care of the brother's children and control the sister-in-law's

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<sup>335</sup>Hanse, Henny Harald (1961): *The Kurdish woman's life: field research in a Muslim society*. Andelsbogtrykkeriet. Denmark, p. 115.

<sup>336</sup>Fischer-Tahir, Andrea (2009): *Brave men pretty women: gender and symbolic violence in Iraqi Kurdish urban society*. Europaisches zentrum fur kurdishe studien, p. 45.

<sup>337</sup>Fischer-Tahir, Andrea (2009): *Brave men pretty women: gender and symbolic violence in Iraqi Kurdish urban society*. Europaisches zentrum fur kurdishe studien, p. 45.

<sup>338</sup>Joseph, Suad (2005) *Encyclopedia of Women and Islamic Cultures: Family, Law and Politics*. Brill. pp. 358, 359.

<sup>339</sup>Fischer-Tahir, Andrea (2009): *Brave men pretty women: gender and symbolic violence in Iraqi Kurdish urban society*. Europaisches zentrum fur kurdishe studien, p. 45.

<sup>340</sup>Hanse, Henny Harald (1961): *The Kurdish woman's life: field research in a Muslim society*. Andelsbogtrykkeriet. Denmark, pp. 134-138.

sexual life. Sometimes this type of marriage has another justification, such as when the first wife is sick or cannot bear children.<sup>341</sup>

Marriage in Kurdish society also differs between rural and urban areas, where some types of marriage can be seen among the tribes, as mentioned by Fischer-Tahir: particularly polygamy, a woman for a woman (*jin ba jin*), an adult woman for a young girl (*Gewre be picuk*) and a woman for blood, (*jin be xwen*). These types of marriage are more common on the outskirts of the cities, in rural areas and in tribes or can be seen among the older generation.<sup>342</sup> Hanse, during her field work in Iraqi Kurdistan, found that monogamy was more common in villages and adds moreover that “polygamy exists among Kurds in the uneducated urban milieu, but the number of wives does not exceed two. Successive marriages, with children of earlier marriages as members of the family, exist among the village aristocracy. Monogamy prevailed in the educated urban milieu.”<sup>343</sup>

It is noteworthy to mention that marriage is considered the only way to satisfy sex drives and produce children. In Kurdish society, the same as in many Middle Eastern countries, only through marriage can men and women fulfill their sexual desires and procreate. Also, the legal contract between the man and woman is the means to realize the marriage and childbirth; the man plays a significant role in the family and the whole society in this culture.<sup>344</sup>

Hanse<sup>345</sup> and Fischer-Tahir<sup>346</sup> discuss marriages arranged by the bride's and groom's families. In the arranged marriage, the groom's family tries to find a good match for their son and then the negotiation begins between the two families about the bride price (*Mare/Mahr*). This type of marriage is common in rural areas but can be seen in urban areas as well. Fischer-Tahir points out that today the marriage arrangement and

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<sup>341</sup>Hanse, Henny Harald (1961): *The Kurdish woman's life: field research in a Muslim society*. Andelsbogtrykkeriet. Denmark, p. 134; Fischer-Tahir, Andrea (2009): *Brave men pretty women: gender and symbolic violence in Iraqi Kurdish urban society*. Europaisches zentrum fur kurdische studien, p. 46.

<sup>342</sup>Fischer-Tahir, Andrea (2009): *Brave men pretty women: gender and symbolic violence in Iraqi Kurdish urban society*. Europaisches zentrum fur kurdische studien, p. 45.

<sup>343</sup>Hanse, Henny Harald (1961): *The Kurdish woman's life: field research in a Muslim society*, p. 138.

<sup>344</sup>Readings in Arab Middle Eastern Societies and Cultures, p. 513.

<sup>345</sup>Hanse, Henny Harald (1961): *The Kurdish woman's life: field research in a Muslim society*, p. 138.

<sup>346</sup>Fischer-Tahir, Andrea (2009): *Brave men pretty women: gender and symbolic violence in Iraqi Kurdish urban society*. Europaisches zentrum fur kurdische studien, p. 45.

style is very different in Sulaimani among the educated middle class. As a first step, the man and woman meet as students at a university or maybe they are coworkers and know each other, or they may meet in another context, such as at political, cultural and sports events. The families may also be close neighbors or live in the same area, or a woman may fall in love with her brother's best friend, a man with his best friend's sister, or they may choose a partner through kinship.<sup>347</sup>

The marriage ceremony starts when the groom's family asks about the bride's reputation as well as her family's reputation, and after the agreement between the two families on many issues concerning bride price (Mare/ mahr), the marriage ceremony will be the next step, which begins with the marriage contract. The contract is drawn up by the Melle and the judge (Qadi). The marriage is a civil act, seen in the fact that the legal document is arranged at the judge's residence and not in the mosque which is a place of prayer, unlike a Christian church which also functions as a kind of registration office.<sup>348</sup>

Hanse noticed that the acceptable age of marriage in the past was between 11 and 12,<sup>349</sup> while in Iraq and several other Muslim countries women are now not allowed to marry under the age of eighteen. According to Islamic law, however, the age at which a woman can marry can be lowered even further with the permission of the religious judge. In Kurdish society, however, the law was reformed and the age of marriage was legally determined. The laws regarding marriage are discussed in Chapter 4. In Iraq, the legal age of marriage is eighteen, although girls can marry at this age without parental approval. If a woman obtains a judge's permission, however, she can get married as young as 15. The judge can approve the marriage if the eligibility and physical ability of the applicant has been proven and if the applicant's legal guardian has given permission. The judge can allow the marriage of a 15-year-old if it is

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<sup>347</sup>Fischer-Tahir, Andrea (2009): Brave men pretty women: gender and symbolic violence in Iraqi Kurdish urban society. *Europaisches zentrum fur kurdische studien*, p. 46.

<sup>348</sup>Hanse, Henny Harald (1961): *The Kurdish woman's life: field research in a Muslim society*. Andelsbogtrykkeriet. Denmark, p. 134; Fischer-Tahir, Andrea (2009): Brave men pretty women: gender and symbolic violence in Iraqi Kurdish urban society. *Europaisches zentrum fur kurdische studien*, p. 121.

<sup>349</sup>Hanse, Henny Harald (1961): *The Kurdish woman's life: field research in a Muslim society*. Andelsbogtrykkeriet. Denmark, p. 134; Fischer-Tahir, Andrea (2009): Brave men pretty women: gender and symbolic violence in Iraqi Kurdish urban society. *Europaisches zentrum fur kurdische studien*, p. 46.



considered an “urgent necessity.”<sup>350</sup> Marriage is considered the most important stage in a woman’s life. Men and women should marry at a specific age, especially women<sup>351</sup>

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<sup>350</sup>Law No. 188 of the year 1959, Personal Status Law and amendments, Section 3, Article 8. [http://apps.americanbar.org/rol/publications/iraq\\_personal\\_status\\_law\\_1959\\_english\\_translation.pdf](http://apps.americanbar.org/rol/publications/iraq_personal_status_law_1959_english_translation.pdf); Law № (188) of the year 1959 was published in the Iraqi official newspaper (Alwaqai Aliraqiya), issue № 280. December 30, 1959; Bearat, J.D., Hayat: Early marriages in Middle East and North Africa: Initiative on Violence against Women. Carr Center for Human Rights Policy. Harvard Kennedy School of Government. Boston.

<sup>351</sup>Iraq's single women suffer in silence (2010). <http://gulfnews.com/news/region/iraq/iraq-s-single-women-suffer-in-silence-1.681157>

## **Chapter Four**

### **The Legal Framework of Women's Rights in Iraq and Iraqi Kurdistan**

#### **4.0 Introduction**

The legal system is considered the main basis for establishing, developing and protecting human rights, whether they are constitutional, civil, criminal, or others. The legal system is by its nature a mirror of the current political system in the country.

This chapter aims to highlight the legal framework and provisions of Iraqi women's rights and examines how the existing laws are addressing the situation of women, considering all aspects including economic, political and also social aspects. In addition, the most recent advances in terms of the legal framework will be discussed. Another objective of the chapter is to highlight the contradictions between different laws in Iraq. It presents the main differences between the constitution of central Iraq and the constitution of Iraqi Kurdistan, focusing on laws addressing women. The Kurdish constitutions will also be highlighted, as well as the legislative structure in Iraqi Kurdistan. Here, the laws' articles concerning women are quoted from the constitution to support the argument that, to some extent, the laws do guarantee women their rights. However, due to other factors, these laws are in reality not executed sufficiently to secure women their rights, security and safety. Thus, the rule of law and factors affecting it will be discussed.

The comparison between Iraq and Kurdistan is formulated to show the differences between the constitutional laws, because although the Kurdish constitution was developed from the Iraqi constitution, it features important differences. A discussion of the constitutional differences follows in the next section.

## **4.1 Tensions between Constitutions, Customary and Universal Laws in Iraq**

Article 2 of the Iraqi constitution of 2005 reads as follows: “First: Islam is the official religion of the State and it is a fundamental source of legislation. Second: This Constitution guarantees the Islamic identity of the majority of the Iraqi people and guarantees the full religious rights of all individuals to freedom of religious belief and practice such as Christians, Yazedis, and Mandi Sabeans.”<sup>352</sup>

In the analysis of the current Iraqi constitution, this article is found to be the most controversial and influential, some pointing out that in setting Islam as a main source of legislation, the constitution reads quite similar to the Afghan constitution, which is described as a very conservative or radical one.<sup>353</sup> Moreover, according to Isobel Coleman who focus her research on the discrimination that might be caused by the Islamic provision,<sup>354</sup> as well as Yanar Mohammed, a leading secular activist and the head of the Organization of Women's Freedom in Iraq, both agreed that "the Islamic provision will turn the country into an Afghanistan under the Taliban."<sup>355</sup>

It is noteworthy to mention here that Islamic jurisprudence itself is derived from four sources: the first three being the Quran, the Hadith (the traditions of Prophet Muhammad), and the Ijma (consensus), which turns to the most reliable Muslim scholars of the highest degree of learning whenever there is need for the Sharia court to deal with a case outside the express provisions of the Holy Quran and the Hadith. And the fourth source is Qiyas (analogical reasoning), involving comparison between the specific case or a new problem that is not mentioned in the Quran or Hadith and any other previous experiences or previously accepted decisions.<sup>356</sup>

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<sup>352</sup>Iraqi Constitution (2005): <http://investpromo.gov.iq/wp-content/uploads/2013/06/iraqi-constitution-En.pdf> ; [http://confinder.richmond.edu/admin/docs/1958\\_Interim\\_Constitution\\_\\_English\\_.PDF](http://confinder.richmond.edu/admin/docs/1958_Interim_Constitution__English_.PDF).

<sup>353</sup>Jay Reding (2005): The Iraqi constitution analyzed. <http://jayreding.com/archives/2005/08/23/the-iraqi-constitution-analyzed>

<sup>354</sup>Coleman, Isobel (2006): Women, Islam, and the new Iraq, in: *Foreign Affairs* 85(1), pp. 24-36, p. 24.

<sup>355</sup>Yanar Mohammed (2004): Off our backs 34 (7-8) , pp. 14-17. <http://www.highbeam.com/doc/1G1-121404661.html>.

<sup>356</sup>Okon, Etim E. (2012): The sources and schools of Islamic jurisprudence, in: *American Journal of Social and Management Sciences* 3(3), pp. 106-111.

It is also significant to point out the fact that there are different standards or schools of jurisprudence in Islam, namely the Hanafi, Shafi'i, Maliki, and Hanbali. The question also arises that when Islam is considered the main source of legislation, which legislative body or institution should apply these standards? This is a question still disputed in Iraq. The case of Iraq is more complicated, considering the different clerics, the Shiites, Sunnis, Turkomans and Kurds, who all have different opinions, beliefs, and norms in addition to different ways of thinking about what comprises a law.

Bammarny, asking the question of which form of Islam should be implemented and how one constitution can address the needs of different sectors, believes that the religious and ethnic differences stand in the way of the rule of law.<sup>357</sup>

'Guaranteeing' the Islamic identity of the people in Iraq leaves open the question of non-Muslims like the Christians and the Yezidis. It is found to be contrary to Article 2 that Islam is accepted as the main source of legislation without providing laws to be applied to non-Muslims.

Another controversial point in the Iraqi constitution of 2005, according to Huda Ahmed, is that in Iraq most of the lawmakers who were involved in outlining the constitutions were Islamic fundamentalists "For instance: most of the lawmakers who participated in drafting the 2005 constitution are members of Islamic fundamentalist political parties, whether Sunni or Shiite. As a result, the charter prohibits any laws that contradict Islam, which is designated as the official religion and the foundation of legislation, opening the door to discriminatory treatment of women rooted in conservative interpretations of Shari'a."<sup>358</sup>

Coleman has also provided the same argument: "The problem of who gets to interpret Shari'a is critical - especially in areas such as gender equality, where the letter of the law is vague."<sup>359</sup> Thus, Article 2 leaves room for many questions and fears in Iraq, which is already a divided society.

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<sup>357</sup>Bammarny, Bawar (2011): Rule of Law in Iraq, in: Matthias Koetter / Gunnar Folke Schuppert: Understandings of the Rule of Law in various legal orders of the world, Rule of Law Working Paper 16: Berlin (ISSN 2192-6905.), p. 7.

<sup>358</sup>Ahmed, Huda (2010): 'Iraq', women's rights in the Middle East and North Africa, in: Sanja Kelly and Julia Breslin edited by New York: Freedom House, p. 5.

<sup>359</sup>Coleman, Isobel (2006): Women, Islam, and the new Iraq, p. 27.

Moreover, setting Islam as the main source of legislation and the official religion of the state has indeed worried many women's rights activists that the government will implement Islam in a more conservative way. The main argument here is that a conservative interpretation of Islam systematically denies women their fundamental rights. The issue of Islam is frequently discussed in feminist thinking, many arguing that Islam could be used to either support or curb women's rights, specifically in the personal issues related to divorce, family and inheritance. Some feminists argue that Islam might institutionalize patriarchal norms in the society. Judith Tucker and Ramla Khalidi, who focus on Islam and gender issues in the Arab countries, argue that the Quran, hadith and Shari'a are the prescribed Islamic rules that guide gender relations. However, these rules could be used by both parties, the fundamental Islamists who want to restrict women's rights and those who demand the equality of women under Islam.<sup>360</sup> Nawal el-Saadawi, a well-known Egyptian feminist, states that Islam has "progressive potential for women, and objects to conservative interpretations which cast women only in subordinated roles."<sup>361</sup> Other scholars, like Fatima Mirnisi, support the argument that religions, especially Islam, provide for or legitimize patriarchal authority, and this played a significant role in shaping the Arab identity, which has been visualized in a way which considers any alteration to be threatening to the moral order that needs to be preserved. For Fatima Mirnisi, such a way of thinking hinders the progress of both democracy and the liberation of women.<sup>362</sup> Patriarchy and a class-based understanding of behavior play a substantial role in preventing women from engaging in the legal system.<sup>363</sup>

Another point of view argues that the same religious groups are found to be significant in the absence of government roles and that political instability might strengthen the role of religious groups. In the case of weak government, people might

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<sup>360</sup>Tucker, Judith, Khalidi, Ramla E. (1994): Women's rights in the Arab world, in: Middle East Research, p. 3.

<sup>361</sup>Graham, Sarah Brown (2001): Women activism in the Middle East: a historical perspective. in: Women and power in the Middle East. Edited by Suad Joseph•Susan Slyomovics. Printed in United States of America, p.31.

<sup>362</sup>Graham, Sarah Brown (2001): Women activism in the Middle East: a historical perspective, in: Women and power in the Middle East. Edited by Suad Joseph•Susan Slyomovics. Printed in United States of America, p.31.

<sup>363</sup>Joseph, Suad (2006): Encyclopedia of women and Islamic cultures: Family, body, sexuality and health. Leiden: Brill 3, p .369.

turn to religious groups in order to achieve a greater sense of social and physical security. In this case, women might have to abandon their freedom and conform to these religion groups for the same reason.<sup>364</sup>

Article 2 of the Iraqi constitution, directing the personal status laws to be dealt with within the different sects, allows the existence of such laws as the al Ja'fari law. A draft of this law was submitted to the parliament on 25 February 2014 for a vote. The law is named after the sixth Shi'ite imam Ja'afar al-Sadiq, who established his own school of (Shi'ite) jurisprudence.<sup>365</sup> Analyzing the main articles of the al Ja'fari law, it is concluded that this law, if implemented, could have devastating effects on the situation of women and women's rights in Iraq. Some examples of the main articles read as follows:

“Article 16 sets the legal age of marriage for females as nine and males as 15, although it could be even lower with the consent of a guardian, father or grandfather. Article 104 permits unconditional polygamy. Article 101 says men have the right to "enjoy" sex with their wives any time they want, and wives cannot leave their marital home without their husband's permission. Article 126 says husbands are not required to pay financial support (nafaqah) when their wife is either a minor or a senior and hence unable to sexually satisfy them. Article 63 prevents Muslim males from permanently marrying non-Muslim females, which means a Shi'ite Muslim male is allowed to marry non-Muslim females temporarily in what is called mut'a marriage. Mut'a is when a man who wants to have sex with a woman "marries" her in the presence of a religious figure, who acts as a mut'a broker. The man will specify how long the marriage will last, ranging from a few hours to many years. A small mehr (dowry) will then be paid to the woman. Such marriages have no protection or guarantees for women and/or their offspring in Iraq. Only a man has the right to renew it when it expires – for another mehr – or to terminate it early. Temporary marriage and

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<sup>364</sup>Brown, Lucy/Romano, David (2006): Women in post-Saddam Iraq: One-step forward or two steps back, in: NWSA Journal 18(3), pp. 51-70, p. 65.

<sup>365</sup>Zangana, Haifa (2014): Ja'fari law takes the Iraqi government's violation of women's rights to a new level. <http://www.theguardian.com/commentisfree/2014/mar/14/jafari-law-iraqi-violation-women-rights-marital-rape>

unregistered marriages in civil courts were prohibited before 2003 but are on the increase among widows and poor women since then."<sup>366</sup>

Al Ja'fari law very clearly contradicts all the human rights laws and agreements that Iraq has already ratified.

Now, comparing the Iraqi Kurdistan constitution to the constitution of central Iraq, the Iraqi Kurdistan constitution refers to the Islam religion (the principles of Islamic Sharia) as one of the main sources of legislation in Article 6.

Article 6 in the Iraqi Kurdistan constitution reads thus:

"This Constitution confirms and respects the Islamic identity of the majority of the people of Iraqi Kurdistan. It considers the principles of Islamic Sharia as one of the main sources of legislation. Likewise, this Constitution upholds and respects all the religious rights of Christians, Yazidis, and others, and it guarantees to every individual in the Region freedom of belief and the freedom to practice their religious rites and rituals. The following is not allowed: First: Enacting a law inconsistent with the provisions of the fundamentals of Islam. Second: Enacting a law inconsistent with democracy principals. Third: Enacting a law inconsistent with the rights and fundamental freedoms contained in this constitution".

Nadeen El-Kassem highlighted the Kurdish constitution at the international conference on Kurdish Women for Peace and Equality as institutionalizing more religious tolerance and containing more provisions that help promote gender equality than the Iraqi constitution, and stated that "the former does not declare Islam as the official religion."<sup>367</sup> Kurdish leader Jalal Talabani, before he became president of Iraq, stressed that they will never agree to an Islamic Iraq: In his words, "Iraq will never be an Islamist state."<sup>368</sup> However, it has to be mentioned here that the Iraqi Kurdistan

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<sup>366</sup>Zangana, Haifa (2014): Ja'fari law takes the Iraqi government's violation of women's rights to a new level, <http://www.theguardian.com/commentisfree/2014/mar/14/jafari-law-iraqi-violation-women-rights-marital-rape>.

<sup>367</sup>Nadeen Al-Kassem (2007): International conference on Kurdish women for peace and equality, 3 (3), pp. 105–108, p. 107.

<sup>368</sup>Spiegel Interview with Iraqi President Jalal Talabani (2005): "I'm in Favor of Reducing the Number of American Troops" <http://www.spiegel.de/international/spiegel/spiegel-interview-with-iraqi-president-jalal-talabani-i-m-in-favor-of-reducing-the-number-of-american-troops-a-362617.html>.

constitution was passed by the parliament but not yet put to a referendum, as will be discussed later in this chapter.

#### **4.1.1 Tribal Loyalty and the Rule of Law**

Hassan<sup>369</sup> has described the approximately 150 tribes in Iraq that are composed of about 2,000 smaller clans with divergent sizes and influence. Hassan argues that country divisions are considered in religion and ethnicity, but tribalism is the least understood. Moreover, loyalty to tribes and clans and intolerance to interference from central authority are among the legacies of tribalism in Iraq. Tribalism is viewed as influential because at least three-quarters of the Iraqi people are members of one of the country's many tribes. While tribal law is classified as the fifth-degree source of legislation in the new Iraqi constitution, it is stated in the Iraqi civil code that the role of tribal law in the new Iraqi legal system is tremendously constrained<sup>370</sup>; however, this is a clear contradiction to the reality at hand.

It is emphasized in the literature that the traditional norms of tribes have survived over a long period of time, and predate Sharia law.<sup>371</sup> The importance of the tribe is considered equal to the importance of the family in Iraqi society. Different problems arose when these tribes or kin groups became enemies with each other to differing degrees depending on the existing economic and political situation. The competition between these tribes over power is considered to be significantly influencing the political decisions in Iraq.<sup>372</sup> Carroll argues that loyalty to the tribe in most Arab countries is a very traditional practice.<sup>373</sup> According to Hassin, Iraq is not a different

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<sup>369</sup>Katzman, Kenneth (2002): Iraq: U.S. Efforts to change the regime: Report for Congress. Order Code RL 31339, p. 1.

<sup>370</sup>Efrati, Noga (2012): Women In Iraq: Past Meets Present. New York: Columbia University Press, p. 80.

<sup>371</sup>Carroll, Katherine Blue (2011): Tribal law and reconciliation in the new Iraq, in: The Middle East Journal 65(1), pp. 11-29.

<sup>372</sup>Todd, Lin et al. (2006): Iraq tribal study – Al-Anbar governorate: The Albu Fahd tribe, The Albu Mahal tribe and the Albu Issa tribe: Study Conducted Under Contract with the Department of Defense, p. 38. <http://www.comw.org/warreport/fulltext/0709todd.pdf>

<sup>373</sup>Carroll, Katherine Blue (2011): Tribal law and reconciliation in the new Iraq.



case, where tribes and extended families are the foundation of society and act as a kind of substitute to the government.<sup>374</sup>

Katherine Blue Carroll emphasized that the rule of tribal customs and traditions is contested on the one hand as obstructing the rule of formal laws and, on the other hand, it is viewed as a significant source of stability when the rule of law fails. Carroll argues that when the state and official powers were not able to enforce the law in Iraq after the American invasion, tribes played a significant role in conflict management and national reconciliation.<sup>375</sup> This theoretical argument is supported by the empirical work conducted in Iraq by Hassin. Hassin illustrates the roles of the Iraqi tribes in enforcing peaceful reconciliation processes using varied methods of conflict management at different levels: individual, communal and even national levels. According to Hassin, Iraq's tribal leaders started to work actively when security was enhanced in 2007 to reconnect the Iraqi community through the processes of tribal law.<sup>376</sup>

Other writers focusing more on women's rights have revealed the other side of the coin, the negative role that tribes might perform in Iraq. They state that tribal laws and traditions are one of the causes behind the unfavorable situation of Iraqi women (as emphasized in the personal status code). This is presumed because of the nature of the state-tribe relationship.<sup>377</sup> Mounira Charrad demonstrated that the powerful relation between state and tribes affect the degree of state independence. Charrad compares the different Arabic countries, she argues further that a state's close relations with tribal kinship groups can lead to the adoption of a conservative family law (as in the case of Morocco), describing how coalition partly between state and tribe or kin groupings consider between alternatives before finally enacting a conservative family law policy (as in the case of Algeria). Moreover, autonomous states far from tribal kin groupings have been seen to enact liberal family laws and promote the legal rights of women (as in the case of Tunisia).<sup>378</sup>

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<sup>374</sup>Hassin, Ahmed (2013): Tribes and conflict management in Iraq, in: Proceedings of the Communication and Conflict 3rd Global Conference, p. 4.

<sup>375</sup>Carroll, Katherine Blue (2011): Tribal law and reconciliation in the new Iraq.

<sup>376</sup>Hassin, Ahmed (2013): Tribes and conflict management in Iraq, p.4.

<sup>377</sup>Efrati, Noga (2012): Women in Iraq: Past Meets Present, p.79.

<sup>378</sup>Mounira Charrad (2001): States and women's rights: the making of postcolonial Tunisia, Algeria, and Morocco. Berkeley and Los Angeles: university of California press, p..25, 34.

Some writers go further and argue that the subordinate status of women in many Arab Muslim countries does not have so much to do with Islam but with the tribal customs and entrenched patriarchal structure. They argue that Islam actually stands against many of these tribal norms; however, Islam also has done little to disrupt these deep-rooted traditions. In the report, the example of honor killings is used to argue that the idea of honor is more linked to tribal norms than to Islam.<sup>379</sup> Moreover, it is stated in the report that tribal leaders in fact have used Islam to legitimize their forms of social organization, and the important role of women, especially mothers, is emphasized in all religions: Muslim, Christian and Jewish mothers are afforded the same respect. The report links the situation of women in modern society to many tribal practices like the killing of infant girls and marriage arrangements. It is argued in the report that tribal norms have prevailed in Iraq and led to the current status of women accompanied by the collapse of law and order and the economic difficulties.

It is crucial as well for the comparison between Iraq and Iraqi Kurdistan to mention that the Kurdish population is also a mix of a variety of nationalities (Kurds, Arabs, Turkmen, Chaldeans, Assyrians, Syriacs, Yazidis), religions (Islam, Christian, Kakaaya, Yazid), sects (Shiite, Sunni) and tribes. Tribalism is also the prominent social formation of Kurdish society, despite the effects of the urbanization process and the war and struggles in the Kurdish society. These factors appear to be breaking up the old solidarities and bringing new types of social relations into Iraqi Kurdistan. The many wars that the Kurdish society was involved in sped up development and destroyed much of the Kurdish traditions. However, they did not lead to the extinction of the tribes; the pre-modern tribal phenomenon has shown remarkable resilience. Tribal laws depend on the "tribal ideology of common descent, endogamy (parallel cousin marriage) and segmentary alliance and opposition."<sup>380</sup> Moreover, the issue of political affiliation and loyalty to well-known heads of clans or lineages is more noticeably present, although kinship ideology is important. According to Bruinessen, intra-tribalism conflicts exist and affect the relationship with the state. On the other hand, the Kurdistan government has also used these tribes in the struggle against the central government; tribes have been mobilized by both sides against each other.<sup>381</sup>

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<sup>379</sup>Todd, Lin et al. (2006): Iraq tribal study – Al-Anbar governorate, p. 26, 27.

<sup>380</sup>Bruinessen, Martin van (2002): Kurds, states and tribes, in: Tribes and Power: Nationalism and Ethnicity in the Middle East. London: Saqi, pp. 165-183, p. 1, 20

<sup>381</sup>Bruinessen, Martin van (2002): Kurds, states and tribes, p. 3, .9.

#### **4.1.2 Women's Rights: Universal Legal Standards**

Even though Iraq has signed many international agreements, there is still a question of to what extent Iraqi constitutional laws and rights are in line with universal human rights.

Iraq has endorsed many international agreements, including the International Covenant on Civil and Political Rights, the International Covenant on Economics, Social and Cultural Rights, and the International Convention on the Elimination of all Forms of Discrimination against Women (CEDAW). The one most related to the topic of this research is the CEDAW. Iraq placed reservations on Article 2 of the Iraqi constitution that required changing the laws to reflect the obligation to CEDAW and Article 16 against equal rights in marriage.<sup>382</sup>

Until February 2014, the Iraqi government still had reservations about Article 2 of the CEDAW, both its clauses (f-g), even though the 2005 Iraqi constitution strengthened the principle of equality before the law and guaranteed equal opportunities without discrimination in Articles 14 and 16. Moreover, the Iraqi government still has reservations about Article 16, under the excuse that it contradicts Sharia law. However, it is stated in the report<sup>383</sup> that there is no rationale to support the reservations, for the reason that the article consents with the acting Personal Status Law No.188 (1959) as amended. To give evidence of this, Iraq had previously ratified in 1971 the International Covenant on Civil and Political Rights, without reservation. This covenant, considered to be a component of the Iraqi legal system, provides in its Article 23 the same content as Article 16 of the CEDAW.<sup>384</sup>

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<sup>382</sup>NGO's Coalition of CEDAW Shadow Report (2014): Iraqi women in armed conflict and post conflict situations: Shadow Report submitted to the CEDAW committee at the 57<sup>th</sup> session.

<sup>383</sup>NGO's Coalition of CEDAW Shadow Report (2014): p. 11..

<sup>384</sup>NGO's Coalition of CEDAW Shadow Report (2014): p. 11.

### **4.1.3 Political Instability Hindering the Rule of Law in Iraq and Kurdistan**

The history of Iraq provided in Chapter 3 of this dissertation about the many political regimes ruling Iraq from the past until the present reveals that the political instability in Iraq has led to many changes in laws concerning women, as well as many changes in the constitution. It is argued that these changes were always in favor of the interest of the political regimes.

The enforcement of laws concerning women, as a means to achieve the interests and goals of women's rights, has been used by the state, especially concerning citizenship, political and economic rights, to enforce state control and achieve their political interests.<sup>385</sup> Abu-Lughod illustrated that "Muslim women's rights" is one of the most dramatic issues used as an instrument to achieve political interests; through these rights, the political framework and intellectual ideals are legitimized.<sup>386</sup> It is important to highlight that these political regimes deliberately focus on family issues, especially issues concerning women.

According to Al-Ali and Pratt, family laws are used as a method to control women by the communal leaders, making these leaders loyal to the state. The Ba'ath, for instance, empowered male domination and tribal authority over women. The constitution of 2005 changed the situation in favor of women with no regard to which sect they belonged to: Shi'i, Sunni, or Kurd. By changing the family law, "the state accommodates social and religious differences, while encouraging the loyalty of communal leaders to the state. Family law becomes a part of a social contract, trading communal autonomy for women's rights."<sup>387</sup>

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<sup>385</sup>Hatem, Mervat F. (2005): In the Shadow of the State: Changing Definitions of Arab Women's "Developmental" Citizenship Rights, *Journal of Middle East Women's Studies*, 1(3), Published by Indiana University Press, pp. 20-45, p. 21.

<sup>386</sup>Abu-Lughod, Lila (2010): The Active Social Life of "Muslim Women's Rights": A Plea for Ethnography, Not Polemic, with Cases from Egypt and Palestine, *Journal of Middle East Women's Studies* 6 (1), Indiana University Press, pp. 1-45, p.33.

<sup>387</sup>Al-Ali, Nadje, Pratt, Nicola (2006): Women and war in Middle East. In: *Women and war in Middle East: Transnational perspectives*. London: Zed Books, p. 23, p. 27.

Other issues concerning the political history of Iraq are summarized by Bammarny, who argues that the execution of laws specifically in Iraq is not easy. This is mainly because the country was subordinated for decades to a police state and dictatorship leaders.<sup>388</sup> Sulaiman also emphasize that those repressive regimes were aimed at depressing women and encouraged violence against them.<sup>389</sup>

In Kurdistan, the situation is not better; political instability may have hindered the rule of law, as stated in the ORSAM report.<sup>390</sup> One of these points concerns the parliamentary system in Iraqi Kurdistan, stating that the democratic process in Iraqi Kurdistan is facing many challenges that lead to weakening external relations and more internal political instability. The main challenge mentioned in that report relates to the inequalities stated in the constitution with regard to specifying the authority of the president. Another challenge in the same line is the lack of “independent, objective and effective judicial institutions and control mechanisms to guarantee the rule of law.”<sup>391</sup> These challenges, among others, are viewed as the main reason behind the violation of human rights in the Iraqi Kurdistan region. It is clearly stated in the report that the fundamental human rights stated in the Iraq constitution are violated in the region. The rights violations are carried out in a systematic manner according to that ORSAM report, including torture, illegal arbitrary detentions, forcing citizens to become members of the two parties in power, and security forces’ killing and injuring civilians who stage demonstrations.<sup>392</sup>

At this point in the discussion, it is significant here to explain how the Iraqi Kurdistan constitution was developed and how it is related to the Iraqi constitution.

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<sup>388</sup>Bammarny, Bawar (2011): Rule of Law in Iraq, p. 7.

<sup>389</sup>Sulaiman, Ghuson (2013): Domestic violence against women in Kurdistan region: A case study of Duhok, Master Thesis: Duhok University-Iraq, p. 32.

<sup>390</sup>ORSAM (2013): Democracy process and problems in Iraqi Kurdistan: Gender for Middle Eastern strategic studies: Ankara: Report No. 151, p. 1-3, 14, 15.

<sup>391</sup>ORSAM (2013): Democracy process and problems in Iraqi Kurdistan: Gender for Middle Eastern strategic studies: Ankara: Report No. 151, p. 1-3, 14, 15.

<sup>392</sup>ORSAM (2013): Democracy process and problems in Iraqi Kurdistan: Gender for Middle Eastern strategic studies: Ankara: Report No. 151, p. 1-3, 14, 15.

## 4.2 Commencement of the Iraqi Kurdistan Constitution and the Legislative Structure

The story of the Kurdish people's long struggles in Iraq has led to the establishment of the Kurdistan Regional Government (KRG), as explained in Chapter 3 of the present study. The year 2005 cannot be forgotten by Kurdish people, when the Kurds achieved their aim of establishing the KRG.<sup>393</sup> On October 15, 2005, the constitution of Iraq announced that it defined Iraq as a country of different nationalities, sects and religions. Kirmanj illustrated that "it was the first time that Iraq was not defined as part of an Arab nation."<sup>394</sup> The new constitution, which was approved by 78% of voters, recognizes the Kurdistan Region's institutions, including the Kurdistan Regional Government and the Kurdistan Parliament.

The Iraqi constitution stated that the republic of Iraq is a federal state with a parliamentary system, and includes the Arabic region in the middle and south of Iraq and the Kurdish region in the north of Iraq. Article 1 in the Iraqi constitution states, "[t]he Republic of Iraq is a single federal, independent and fully sovereign state in which the system of government is republican, representative, parliamentary, and democratic, and this Constitution is a guarantor of the unity of Iraq."<sup>395</sup>

The KRG had its own articles in the Constitution of 2005, had the right to executive, legislative, and judicial branches and enjoyed the constitutionally protected autonomy to govern its affairs within the regional borders of Iraqi Kurdistan.<sup>396</sup> The 2005 constitution of federal Iraq recognized Iraqi Kurdistan, which consists of the three Kurdish provinces of Dohuk, Irbil, and Sulaymaniyah as a legal 'region' (Article 113)—the Kurdistan Regional Government (KRG)—with the power to amend the application of national laws not specifically under national government purview, to maintain internal security forces, and to establish embassies abroad (Article 117).<sup>397</sup> According to O'Leary, the new constitution of Iraq acknowledges the Kurdistan

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<sup>393</sup>Kelly, Michael J. ( 2010): The Kurdish regional constitution within the framework of the Iraqi federal constitution: A struggle for sovereignty, oil, ethnic identity, and the prospects for a reverse supremacy clause, in: Penn State Law Review, 114 (3) , pp. 707-808, p. 727.

<sup>394</sup>Kirmanj, Sherko (2013): Identity and Nation in Iraq: Lynne Rienner:, USA. p. 196.

<sup>395</sup>Iraqi Constitution (2005). [http://www.iraqinationality.gov.iq/attach/iraqi\\_constitution.pdf](http://www.iraqinationality.gov.iq/attach/iraqi_constitution.pdf)

<sup>396</sup>Cravens, Lamar/ Derick, Brinkerhoff (2013): Provincial governance in Iraq: Councils, contestation, and capacity building, in: Research Report. RIT International, USA.

<sup>397</sup>Kurdistan Regional Government. <http://www.krg.org/p/p.aspx?l=12&p=229>.

National Assembly Government and Region, as well as all of the region's laws and contracts.

Iraqi Kurdistan law is based on the Iraqi legal system and its provision remains in force.<sup>398</sup> Thus, the constitution of Iraq permitted the Kurdistan region KR to have its own regional constitution. But, "the Kurdish regional constitution must exist within the framework of the Iraqi federal constitution (—which the Kurds helped craft to their advantage)."<sup>399</sup> The constitution of Iraq refuses any laws or provisions which contradict its provisions; this is mentioned in Article 13 of the Iraq constitution:

"Article 13: First: This Constitution is the preeminent and supreme law in Iraq and shall be binding in all parts of Iraq without exception. Second: No law that contradicts this Constitution shall be enacted. Any text in any regional constitution or any other legal text that contradicts this Constitution shall be considered void."<sup>400</sup>

The constitution gives the Kurdistan National Assembly broad autonomy in many aspects; but, there are a number of restricted and limited powers of the federal government.

On the other hand, the Iraqi constitution did not put restrictions on the KR and allows the KRG to exercise considerable control and reject federal laws; the KRG has the power to decide the tax rates from people in the KR and manage the oil and water in the region. Also, the Iraqi constitution allows the KR to have its own military forces (Peshmerga) and be responsible for security in the region.<sup>401</sup> Khalil explained that "the Kurdish leaders managed to achieve a number of key Kurdish objectives by taking an early leading role in the political transition. Most importantly, the Kurds

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<sup>398</sup>Begikhani/ Gill / Hague (2010): Honour-based violence and honour-based killings in Iraqi Kurdistan and in the Kurdish Diaspora in the UK: Final report.

<sup>399</sup>Kelly, Michael J. (2010): The Kurdish regional constitution within the framework of the Iraqi federal constitution: A struggle for sovereignty, oil, ethnic identity, and the prospects for a reverse supremacy clause, in: Penn State Law Review, 114 (3), pp. 707-808, p. 727.

<sup>400</sup>Iraq constitution 2005; Kelly, Michael J. (2010): The Kurdish Regional Constitution within the Framework of the Iraqi Federal Constitution, p. 727.

<sup>401</sup>Hadji, Philip S. (2009): The Case For Kurdish Statehood in Iraq, in. Hein Online, Vol. 41 (513), p. 3.

successfully negotiated the recognition of the KRG in the permanent Constitution ratified on October 15, 2005."<sup>402</sup>

The KRG is a parliamentary system of government set out to be the same as the structure of the European democracies, for instance the government of the United Kingdom. The KRG has a democratically elected parliament which is called the Kurdistan National Assembly and has been elected many times since 1992.<sup>403</sup> In 2002, the Kurdistan National Assembly completed this task with the aim of drafting the Kurdistan regional constitution. The Kurdistan National Assembly approved the proposal by Decision No. 26 on 7 November 2002. After the occupation of Iraq in 2003, the permanent Iraqi constitution was written and then approved in the referendum of 15 October 2005. Therefore, it was necessary to amend the draft constitution of the Kurdistan Region to be in harmony with the new Iraqi constitution. Indeed, the special committee started its work in September 2005 and continued until 22 August 2006. The final reading of the draft was done in the parliamentary session on 24 September 2006, and endorsed by the Kurdish parliament in June 2009, but this constitution was not presented to the Kurdish people in a referendum to ratify it.<sup>404</sup> According to Bengio, the KRG was forced to postpone the referendum; this was scheduled to take place in August 2009 together with the elections in the region. This is because the Arab partners considered it a step toward separation.<sup>405</sup> Therefore, the source of the legal system in Iraqi Kurdistan is the constitution of 2005 in Iraq that was amended to the case of Iraqi Kurdistan.

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<sup>402</sup>Khalil, Lydia (2009): Stability in Iraqi Kurdistan: Reality or mirage: Working paper, in: The Saban Center for Middle East Policy at the Brookings Institution 2, p. 3.

<sup>403</sup>Hadji, Philip S. (2009): The case for Kurdish statehood in Iraq, in: Hein Online, 41 (2&3), p. 526.

<sup>404</sup>List of Iraq's constitutions. <http://www.niqash.org/Articles/?id=2306>;  
[http://confinder.richmond.edu/admin/docs/1958\\_Interim\\_Constitution\\_\\_English\\_.PDF](http://confinder.richmond.edu/admin/docs/1958_Interim_Constitution__English_.PDF); Bengio, Ofra (2012): The Kurds of Iraq, p. 303.

<sup>405</sup>Bengio, Ofra (2012): The Kurds of Iraq, p. 310.



### **4.3 Correlating the Constitution of Central Iraq and the Iraqi Kurdistan Constitution**

Even though the Iraqi legal system is the basis of Iraqi Kurdistan laws,<sup>406</sup> the Kurdish federal region's local constitution incorporated many articles and paragraphs that disagree with those of the central government, particularly in the field of taking advantages of national and regional wealth, such as oil.

It is stated clearly in the Iraqi constitution that in case of contradictions between central and local laws of any regional administration, the power is given to the local administration to decide. Article 115 of the Iraqi constitution states, “[t]he priority goes to the regional law in case of conflict between other powers shared between the federal government and regional governments.” Article 121, 2 states, “[i]n case of a contradiction between regional and national legislation in respect to a matter outside the exclusive powers of the federal government, the regional authority shall have the right to amend the application of the national legislation within that region.” In the absence of comprehensible articles determining the powers of the federal central government, the region was left free to issue and implement what is relevant to the situations there.

In addition to that, Article 126 states that “articles of the Constitution may not be amended if such amendment takes away from the powers of the regions that are not within the exclusive powers of the federal authorities, except by the approval of the legislative authority of the concerned region and the approval of the majority of its citizens in a general referendum.”

So, the drafters granted the Kurdish region more power to decide. Not only the Kurdish, but also the Shiaas were given such rights, for the reason that they were certain of their control over most of the southern provinces.<sup>407</sup>

Moreover, the Iraqi constitution granted the Kurdistan region the right to invalidate or amend any federal legislation where powers are shared between the federal and regional governments. It also grants the Kurdistan National Assembly and the people

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<sup>406</sup>Begikhani/ Gill / Hague (2010): Honor-based violence and honor-based killings in Iraqi Kurdistan and in the Kurdish Diaspora in the UK, p. 26.

<sup>407</sup>Jawad, Saad N (2013): The Iraqi constitution: Structural flaws and political implications: LSE Middle East Centre Paper Series 1, p. 16.

of the Kurdistan Region the ability to veto any constitutional amendments that affect their powers and rights.<sup>408</sup>

Since then, the KRG has undertaken various efforts to develop the legal and judicial system aimed to support and strengthen the rule of law in Kurdistan.

The Kurdistan National Assembly, which in 2009 was renamed the Kurdistan Parliament, consists of 111 seats (as stipulated in Law No. 1 passed in 1992). The KRG tried through coordination with the parliament to improve and support the implemented legislations and built coordination networks with the KRG Ministry of Justice. Given this power and the fact that the Parliament of the KRG was considered the elected legislature, the KRG parliament has approved many different laws, especially laws concerning women's issues. This includes amendments to the Iraqi Personal Status Law, amendments to the Iraqi Pension and Social Security Law, amendments to the Law to Combat Domestic Violence and amendments to the Law on Rights of Family Members of Anfal Victims. It is worth mentioning here that of the 111 seats, the legal minimum quota of women members of Parliament (MPs) was increased from 25 percent to 30 percent of the legislature. In the current parliament, 36 of the 111 MPs are women.<sup>409</sup> This is considered positive, because in Iraq there are 82 women out of 325 parliament seats, and that made up 25 percent as of 2010.<sup>410</sup>

In addition to that, the KRG made some efforts to improve the situation of women through encouraging the application of laws, as mentioned in Prime Minister Nechirvan Barzani's speech at the presentation of the Women's Rights Award on the 25th of November, 2007:

"First, we need to develop a culture of respect and admiration for the role women play in our society: in our families, in our schools and in professional fields. A society which does not respect all of its citizens cannot be expected to advance; we cannot achieve full progress using only half of our

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<sup>408</sup>O'Leary (2007): The Kurdistan region: Invest in the future: An official publication of the Kurdistan regional government. [http://www.krg.org/uploads/documents/Invest\\_in\\_the\\_Future\\_2008.pdf](http://www.krg.org/uploads/documents/Invest_in_the_Future_2008.pdf).

<sup>409</sup>Kurdistan Regional Government.<http://www.krg.org/p/p.aspx?l=12&p=229>.

<sup>410</sup>UNICEF (2011): Iraq Mena gender equality profile: States of girls and women in the Middle East and north Africa, p.3

population, skills and abilities. Together we can make big steps towards solutions and successes".<sup>411</sup>

Among these efforts to offer women security in their lives, in 2007, according to UNAMI,<sup>412</sup> the KRG authorities,

"established a Directorate to Follow-up Violence against Women in Sulaimani. Later, in the same year a department was opened in Erbil and Duhok city. Also, in 2007 the KRG Prime Minister Nechirvan Barzani established a high-level Ministerial Commission comprising representatives from eight KRG ministries and other entities to address all forms of violence against women at the policy level."<sup>413</sup>

However, the effects of these governmental institutions remain debatable and many questions arise as to whether these institutions are sufficient and able to change the situations.

In the next part of this chapter, the main constitutional laws and legislative provisions of women rights in Iraq and consequently in Kurdistan are presented, as the Kurdish constitution is developed from the Iraqi constitution.

#### **4.4 National Legal Provisions Concerning Women in Iraq and Iraqi Kurdistan**

Generally, women in Iraq are, like in many other countries in the Middle East, discriminated against concerning the rights and laws stated in the constitution and in the exercise of these rights and laws. Tabet, who studied the legal system as it pertains to women's rights in the Middle East, argues that in Iraq, Jordan, Lebanon, Palestine, and Syria, countries with a majority Muslim population, the laws and norms that apply to men and women are discriminatory, and unequal. Tabet points out that none of these countries are able to guarantee an egalitarian status to women within the framework of their current laws. Moreover, the family laws of the above-mentioned

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<sup>411</sup>Kurdistan Regional Government. <http://www.krg.org/p/p.aspx?l=12&p=229>; Sulaiman, Ghuson (2013): Domestic violence against women in Kurdistan region, p. 36.

<sup>412</sup>United Nations Assistance Mission for Iraq (UNAMI).

<sup>413</sup>UNAMI (2009): Human Right Office/ OHCHR, Baghdad.

countries are not in line with the international conventions ensuring women's rights.<sup>414</sup>

Even if the Iraqi constitution was formulated in a national referendum, however, before the election the United States and other donors tried to empower women through enhancing political participation, raising women's awareness and supporting their participation in the constitution drafting process.<sup>415</sup>

The Iraqi constitution of 2005<sup>416</sup> is made up of 143 constitutional Articles which contain clear signals and are explicit about women's rights and freedoms. In addition, clear references to the rights women share with men, and sometimes women's rights independently, are found. Generally, readings of Iraq's permanent constitution have revealed the use of some positive language towards protecting women's human rights. For example, Articles 14, 15, 20, and 29 (4) shall be provided below. It is obvious when reading these Articles that the law technically guarantees equality for Iraqi women in many aspects; however, in reality the situation is quite different.

In the next section, all Articles in the constitution related to women's rights will be discussed.

#### **4.4.1 Fundamental Rights**

The Iraqi constitution contains provisions that call for equality for all citizens of Iraq. Article 14<sup>417</sup> gives women equality before the law and states, "Iraqis are equal before the law without discrimination based on gender, race, ethnicity, nationality, origin, color, religion, sect, belief or opinion, or economic or social status."<sup>418</sup> It is followed by Article 15<sup>419</sup>, which grants women the right to security and freedom, and states, "[e]very individual has the right to enjoy life, security and liberty. Deprivation or

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<sup>414</sup>Gihane, Tabet (2005): Women in personal status laws: Iraq, Jordan, Lebanon, Palestine, Syria, in: SHS papers in women's studies/ gender research 4.

<sup>415</sup>Al-Ali Nadje, Nicola Pratt (2009): What kind of liberation: Women at the occupation of Iraq. University of California Press. p110.

<sup>416</sup>List of Iraq's constitutions. <http://www.niqash.org/Articles/?id=2306>;

[http://confinder.richmond.edu/admin/docs/1958\\_Interim\\_Constitution\\_\\_English\\_.PDF](http://confinder.richmond.edu/admin/docs/1958_Interim_Constitution__English_.PDF).

<sup>417</sup>Iraqi constitution: p. 7.[http://www.iraqinationality.gov.iq/attach/iraqi\\_constitution.pdf](http://www.iraqinationality.gov.iq/attach/iraqi_constitution.pdf).

<sup>418</sup>Iraqi constitution: p. 7.[http://www.iraqinationality.gov.iq/attach/iraqi\\_constitution.pdf](http://www.iraqinationality.gov.iq/attach/iraqi_constitution.pdf).

<sup>419</sup>Iraqi constitution: p. 7. [http://www.iraqinationality.gov.iq/attach/iraqi\\_constitution.pdf](http://www.iraqinationality.gov.iq/attach/iraqi_constitution.pdf).

restriction of these rights is prohibited except in accordance with the law and based on a decision issued by a competent judicial authority." <sup>420</sup>

The new constitution in Article 16<sup>421</sup> does not ignore the right to work for women and men, and states, "[e]qual opportunity shall be guaranteed to all Iraqis, and the state shall ensure that the necessary measures to achieve this are taken."<sup>422</sup> The constitution also refers to personal privacy in Article 17,<sup>423</sup> which states in paragraph (1), "[e]very individual shall have the right to personal privacy so long as it does not contradict the rights of others and public morals." <sup>424</sup>

#### **4.4.2 Citizenship**

Under Article 18<sup>425</sup> of this constitution, Iraqi nationality is a right of all Iraqis (men and women) and is passed from either an Iraqi mother or an Iraqi father and, as stated in paragraph (1), "Iraqi citizenship is a right for every Iraqi and is the basis of his nationality," and in paragraph (2), "[a]ny one who is born to an Iraqi father or to an Iraqi mother shall be considered an Iraqi. This shall be regulated by law."

#### **4.4.3 Political Participation**

The right to vote is granted to all Iraqis in Article 20,<sup>426</sup> which states, "Iraqi citizens, men and women, shall have the right to participate in public affairs and to enjoy political rights including the right to vote, elect, and run for office." This upholds the right to vote for men and women equally, and guarantees the basic political rights of Iraqi citizens.<sup>427</sup>

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<sup>420</sup>Iraqi constitution: p. 7. [http://www.iraqinationality.gov.iq/attach/iraqi\\_constitution.pdf](http://www.iraqinationality.gov.iq/attach/iraqi_constitution.pdf).

<sup>421</sup>Iraqi constitution: p. 7. [http://www.iraqinationality.gov.iq/attach/iraqi\\_constitution.pdf](http://www.iraqinationality.gov.iq/attach/iraqi_constitution.pdf).

<sup>422</sup>Iraqi constitution: p. 7. [http://www.iraqinationality.gov.iq/attach/iraqi\\_constitution.pdf](http://www.iraqinationality.gov.iq/attach/iraqi_constitution.pdf).

<sup>423</sup>Iraqi constitution: p. 7. [http://www.iraqinationality.gov.iq/attach/iraqi\\_constitution.pdf](http://www.iraqinationality.gov.iq/attach/iraqi_constitution.pdf).

<sup>424</sup>Iraqi constitution: p. 7. [http://www.iraqinationality.gov.iq/attach/iraqi\\_constitution.pdf](http://www.iraqinationality.gov.iq/attach/iraqi_constitution.pdf).

<sup>425</sup>Iraqi constitution: p. 7. [http://www.iraqinationality.gov.iq/attach/iraqi\\_constitution.pdf](http://www.iraqinationality.gov.iq/attach/iraqi_constitution.pdf).

<sup>426</sup>Iraqi constitution: p. 9. [http://www.iraqinationality.gov.iq/attach/iraqi\\_constitution.pdf](http://www.iraqinationality.gov.iq/attach/iraqi_constitution.pdf).

<sup>427</sup>Women and the Law in Iraq (2011): Institution of International Law and Human Rights: ISBN 978-0-61544043-9.

#### 4.4.4 Economic Rights

Article 22<sup>428</sup> guarantees the right to work for all Iraqis, without discrimination by gender,<sup>429</sup> which states in paragraph (1), "[w]ork is a right for all in a way that guarantees a dignified life for them."

#### 4.4.5 Social Rights

Article 29<sup>430</sup> grants women the right to children, respect, care, and the protection of motherhood, and also protects women from violence in all public and private spheres, which states in paragraph (1) b, "[t]he state shall guarantee the protection of motherhood, childhood and old age, shall care for children and youth, and shall provide them with the appropriate conditions to develop their talents and abilities." In paragraph (2), "[c]hildren have the right to upbringing, care from their parents, especially in times of need, disability, and old age." In paragraph (4), "[a]ll forms of violence and abuse in the family, school, and society shall be prohibited." Article 30<sup>431</sup> grants women and children health and social insurance in paragraph (1): "The state shall guarantee to the individual and the family, especially children and women, social and health security, the basic requirements for living a free and decent life, and shall secure for them suitable income and appropriate housing." Further, Article 31<sup>432</sup> grants all Iraqis health care and states in paragraph (1), "[e]very citizen has a right to health care. The State shall maintain public health and provide the means of prevention and treatment by building different types of hospitals and health institutions." Article 34<sup>433</sup> gives equal rights to free education for all Iraqis,<sup>434</sup> which states in paragraph (1), "[e]ducation is a fundamental factor for the progress of society and is a right guaranteed by the state. Primary education is mandatory and the state

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<sup>428</sup>Iraqi constitution: p. 9. [http://www.iraqinationality.gov.iq/attach/iraqi\\_constitution.pdf](http://www.iraqinationality.gov.iq/attach/iraqi_constitution.pdf).

<sup>429</sup>Iraq Legal Development Project (ILDP) (2006): The status of women in Iraq: Update to the assessment of Iraq's De Jure and De Facto Compliance with international legal standards: American Bar Association: ISBN: 1-59031-841-2, p. 153.

[http://apps.americanbar.org/rol/publications/iraqi\\_status\\_of\\_women\\_update\\_2006.pdf](http://apps.americanbar.org/rol/publications/iraqi_status_of_women_update_2006.pdf).

<sup>430</sup>Iraqi constitution: p. 10. [http://www.iraqinationality.gov.iq/attach/iraqi\\_constitution.pdf](http://www.iraqinationality.gov.iq/attach/iraqi_constitution.pdf).

<sup>431</sup>Iraqi constitution: p. 11. [http://www.iraqinationality.gov.iq/attach/iraqi\\_constitution.pdf](http://www.iraqinationality.gov.iq/attach/iraqi_constitution.pdf).

<sup>432</sup>Iraqi constitution: p. 11. [http://www.iraqinationality.gov.iq/attach/iraqi\\_constitution.pdf](http://www.iraqinationality.gov.iq/attach/iraqi_constitution.pdf).

<sup>433</sup>Iraqi constitution: p. 11. [http://www.iraqinationality.gov.iq/attach/iraqi\\_constitution.pdf](http://www.iraqinationality.gov.iq/attach/iraqi_constitution.pdf).

<sup>434</sup>Iraq Legal Development Project (ILDP) (2006): The status of women in Iraq, p. 131.

guarantees that it shall combat illiteracy," where paragraph (2) states, "[f]ree education in all its stages is a right for all Iraqis."

#### 4.4.6 Liberties

Article 37<sup>435</sup> contains provisions to protect women's rights and freedoms <sup>436</sup>and protect women from violence, and states in paragraph (1), "[t]he liberty and dignity of man shall be protected." In paragraph (3), "[a]ll forms of psychological and physical torture and inhumane treatment are prohibited. Any confession made under force, threat, or torture shall not be relied on, and the victim shall have the right to seek compensation for material and moral damages incurred in accordance with the law."

Article 41<sup>437</sup> granting freedom to the Iraqi people to determine their personal status according to their doctrine, belief or nationality 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."

Article 44<sup>438</sup> guarantees the freedom of movement and travel, which states in paragraph (1), "[e]ach Iraqi has freedom of movement, travel, and residence inside and outside Iraq."

Article 49<sup>439</sup> gives women the right to participate in parliament and stipulates a minimum quota of women members, not less than one-quarter of the members of the Council of representatives, as stated in paragraph (4): "The elections law shall aim to achieve a percentage of representation for women of not less than one-quarter of the members of the Council of Representatives."

In addition to the constitution, there is also a personal status law No. 188, which is a set of legal rules that govern and regulate the affairs of the family and its transactions, marriage, divorce, all kinds of alimony, custody, inheritance, adoption, wills, ... etc.<sup>440,441</sup>

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<sup>435</sup>Iraqi constitution: p. 12. [http://www.iraqinationality.gov.iq/attach/iraqi\\_constitution.pdf](http://www.iraqinationality.gov.iq/attach/iraqi_constitution.pdf).

<sup>436</sup>Bammarny, Bawar (2011): Rule of Law in Iraq.

<sup>437</sup>Iraqi constitution: p. 13. [http://www.iraqinationality.gov.iq/attach/iraqi\\_constitution.pdf](http://www.iraqinationality.gov.iq/attach/iraqi_constitution.pdf).

<sup>438</sup>Iraqi constitution: p. 14. [http://www.iraqinationality.gov.iq/attach/iraqi\\_constitution.pdf](http://www.iraqinationality.gov.iq/attach/iraqi_constitution.pdf).

<sup>439</sup>Iraqi constitution: p. 15. [http://www.iraqinationality.gov.iq/attach/iraqi\\_constitution.pdf](http://www.iraqinationality.gov.iq/attach/iraqi_constitution.pdf).

<sup>440</sup>Cherland, Kelsey (2014): The development of personal status law in Jordan & Iraq, PhD. Thesis, Claremont McKenna College, p. 70.

<sup>441</sup>See Chapter 3.

## **4.5 Amendments to Laws Concerning Women in Iraqi Kurdistan**

With respect to laws concerning women in the Kurdistan region, there are two aspects to be considered: First, laws and rights are all clearly stated in both the Iraqi constitution and the Iraqi Kurdistan constitution to support women; however, the implementation of these rights is contested. There are many violations of women's rights in Iraq, as well as in Kurdistan. Second, despite the violation of women's rights in Kurdistan, some writers argue that women's legal situation and rights are better than those in Iraq. If this argument is true, is this the result of the amendments carried out by the Kurdish government? How are these amendments executed, and what are the effects of the execution of these amendments on the reality of women in Iraqi Kurdistan? And, most importantly, if these laws exist and are executed, why are there still violations to women's rights, rapidly increasing violence and discrimination against women in Kurdistan?

The KRG has carried out varied amendments to the legislation to support women's rights, for instance the reforms in passport laws, polygamy, honor killing, domestic violence and female genital mutilation (FGM) as types of violence against women, which shall be discussed below.

### **4.5.1 Passport Law**

Iraqi women are unable to obtain a passport and travel outside the country without the permission of a male relative (father, brother, uncle). However, Article 44<sup>442</sup> guarantees women the freedom of movement, travel, and residence inside and outside of Iraq.

In Iraqi Kurdistan, and after more than one year of intensive efforts by women's rights activists in the Kurdish region of Iraq, women have achieved substantial progress in their campaign to secure for women the constitutionally mandated freedom to travel. On May 8, 2009, Prime Minister Nechirvan Barzani of the Iraqi Kurdistan Government (KRG) declared that women over the age of 18 were able to obtain passports without restriction. The General Directorate of Travel and Nationality supported his announcement by issuing amended passport application procedures for residents of the Kurdish region of Iraq. When travel originates from

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<sup>442</sup>Iraqi constitution: p. 14. [http://www.iraqinationality.gov.iq/attach/iraqi\\_constitution.pdf](http://www.iraqinationality.gov.iq/attach/iraqi_constitution.pdf).



airports under the jurisdiction of the KRG, Iraqi Kurdish women now exercise the right to travel outside the country without being subject to inconsistent implementation of discriminatory laws.<sup>443</sup>

#### **4.5.2 Personal Status Law**

This law legalizes the relationship between the individual and his/her family, including issues such as marriage, alimony, dowry and affinity, and establishes what the consequences are from this relationship, such as divorce, separation and other cases of inheritance and guardianship.<sup>444</sup>

On the 14th of July 1958, Personal Status Law No. 188 was issued following efforts by judges and reformers since the end of the monarchy. Its purpose was to achieve stability in family life and to end confusion and contradictions in Islamic jurisprudence. However, the law did not remain the same, for there were many amendments. The first was in 1963. Then, the amendments continued in the 1970s and 1980s, in which new principles were added, most of which were fair to women, except those of a political nature.

The Iraq personal status law<sup>445</sup> of 1959, unlike the other Arab countries, stipulated the replacement of the old Sharia courts by government-run personal status courts. This law restricted child marriage, forced marriage and polygamy; it curtailed men's privileges in divorce, expanded women's rights in divorce, extended child custody to mothers and improved inheritance rights for women. This law was one of the most liberal laws in the Arab countries where women rights are concerned. In addition to that, it eliminated the differences between the sects and subjected them all to the law. All Iraqi people were thus equal before the law with no regard to their religion, sect or tribal belonging. For a long time, this law was contested and opposed by the religious

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<sup>443</sup>The National Democratic Institute (NDI) (2009). <https://www.ndi.org/node/15551>.

<sup>444</sup>NGO's Coalition of CEDAW Shadow Report (2014), p. 70.

<sup>445</sup>Heinrich Boell Stiftung (2014): Iraqi women's and the national personal status law- statehood and participation. <http://lb.boell.org/en/2014/03/03/iraqi-women-and-national-personal-status-law-statehood-participation>

leaders in the country, arguing that it contradicts the Sharia laws.<sup>446</sup> When Abdel Aziz Al Hakim was appointed as head of the Islamic Supreme Council of Iraq, he cancelled the personal status law through decree no. 137 during his term as president of the Interim Governing Council in December 2003. This was faced by extreme opposition from women, liberals and Kurds in the council. As a result of this opposition by women's groups and women's civil society associations, the decision to cancel the law was revoked by US civilian governor Paul Bremer, and the law remains in effect until a new law is issued and passed.<sup>447</sup> In the new constitution of 2005, Article 41 was issued to specify that "Iraqi citizens, 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." This article left family matters to be dealt with within the different religious groups and sects according to their beliefs and decisions. This is thought by many women activists to increase all kinds of discrimination against women in Iraq. Moreover, this article directly attacks the unity of the Iraqi people.<sup>448</sup> Many writers argue that Article 41 is a clear contradiction of Article 14 of the same constitution that emphasizes the equality of the Iraqi people before the law and forbids any discrimination based on gender, race, religious, sect, etc. It is an obvious contradiction between religious autonomy and equal rights for all Iraqi citizens.<sup>449</sup> On November, 2008, this Personal Status Law was amended by Iraqi Kurdistan and is known as Law No. 15. It enriched the Iraqi personal status law with many amendments to benefit women and ensure their equality with men. It consists of a total of 25 articles. The focus here is on articles that deal with marriage, alimony and divorce.<sup>450</sup>

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<sup>446</sup>Heinrich Boell Stiftung (2014): Iraqi women's and the national personal status law- statehood and participation. <http://lb.boell.org/en/2014/03/03/iraqi-women-and-national-personal-status-law-statehood-participation>

<sup>447</sup>Pratt, Nicola Christin, Al-Ali,Nadje Sadig (2009): What kind of liberation: women and the occupation of Iraq. University of California. London, England, p. 93.

<sup>448</sup>Heinrich Boell Stiftung (2014): Iraqi women's and the national personal status law- statehood and participation. <http://lb.boell.org/en/2014/03/03/iraqi-women-and-national-personal-status-law-statehood-participation>

<sup>449</sup>NGO's Coalition of CEDAW Shadow Report (2014), p. 70

<sup>450</sup>Yaseen, Azadeen Abdulah (2012): the law no.15 of the year 2008: Amendment in the personal status law no.188 of the year 1959 in Iraqi Kurdistan. Second edition. Erbil, Iraq. See the personal status law No. 188, <https://refworld.org.es/pdfid/5c7664947.pdf>.

## **Act No. 15 of 2008**

### **The Act to Amend the Amended Law No. 188 of the year 1959:**

#### **Personal Status Law in the Iraqi Kurdistan Region**

##### **Chapter 1 – Marriage Section 1 – Marriage and Betrothal**

Article 1:

Firstly: The validity of Paragraph 1, Article 3 of the amended law No. 188 of the year 1959 shall be suspended in the Iraqi Kurdistan Region and replaced with the following:

1. Marriage is a voluntary contract between a man and a woman according to which their marriage life will become licit as per Islamic laws. The aim of marriage is to form a family on the basis of love, sympathy and mutual responsibility according to the provisions of this Act.<sup>451</sup>

The Iraqi personal status law defined a marriage<sup>452</sup> as a contract between a man and a woman who is lawfully permissible to him, while the new Kurdish legislature defined marriage as a consensual contract between a man and a woman. This Kurdish legislation has abolished discrimination between women and men in defining marriage.

Secondly: The validity of Paragraphs 4, 5, 6 and 7 of the Article 3 of the amended law No. 188 of the year 1959 shall be suspended and replaced with the following:

- Marrying more than one woman is not allowed unless authorized by the judge.

The authorization depends on meeting the following conditions:

- a. The first wife has to agree before the court to her husband's marrying a second wife.

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<sup>451</sup>Yaseen, Azadeen Abdulah (2012): the law no.15 of the year 2008: Amendment in the personal status law no.188 of the year 1959 in Iraqi Kurdistan. Second edition. Erbil, Iraq. See the personal status law No. 188, <https://refworld.org.es/pdfid/5c7664947.pdf>

<sup>452</sup>See the personal status law No. 188, <https://refworld.org.es/pdfid/5c7664947.pdf>.

- b. If the wife is afflicted with a [medically] proven chronic incurable disease that prevents having sexual intercourse, or if the wife is infertile. These have to be certified by a specialized medical committee's report.
- c. The man who wants to get married to a second wife has to have enough financial ability to spend on more than one wife and he has to provide certified formal documentation for this and submit it to the court as he carries out the marriage contract procedures.
- d. The husband has to submit a written document to the court before [signing - T-] the marriage contract, in which he has to vow to treat both his wives fairly and equally in terms of sexual intercourse and other marriage relations both materially and morally.
- e. The wife must have not set as a condition in the marriage contract that her husband must not have a second wife.
- f. Anyone who marries a second wife contrary to what has been stated in Paragraphs 'a', 'b', 'c', 'd' and 'e' of the second item of this Article will be sentenced to imprisonment for a period of time that ranges between the minimum of six months and one year and fined ID10m.
- g. The judge must not suspend the penalties stated in paragraph 'f' above.<sup>453</sup>

Paragraphs 4, 5, 6 and 7 allowed men to practice polygamy under very mild conditions, for example financial efficiency and legitimated it without setting a certain standard for these conditions. Also, it is not necessary for a man to ask for permission from the judge if he intends to marry a widow. This article contained paragraphs that allowed polygamy,<sup>454</sup> while the Kurdish legislation added new conditions to prevent further polygamy including the consent of the first wife and the first wife's disease preventing her from performing her marital duties Also Paragraph 7 in the amendment was taken out of effect and the punishment was increased to a fine of ID10 million. Women's activists believe that this is a positive step. Despite these obstructions to

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<sup>453</sup>Yaseen, Azadeen Abdulah (2012): the law no.15 of the year 2008: Amendment in the personal status law no. 188 of the year 1959 in Iraqi Kurdistan. See the personal status law No. 188. <https://refworld.org.es/pdfid/5c7664947.pdf>.

<sup>454</sup> See the personal status law No. 188. <https://refworld.org.es/pdfid/5c7664947.pdf>

polygamy, Kurdish men have tried to find a way to marry a second or third wife, for instance by going to the court in Kirkuk city because the city is under Iraq law.<sup>455</sup>

## **Section 2 – Marriage Pillars and Conditions**

Article 3:

Firstly: The validity of Item ‘d’, Paragraph 1 of Article 6 shall be suspended and replaced with the following:

d. Testimony of two witnesses having the qualification of legal competence, who have to bear witness for the marriage contract; in this paragraph men and women are equal.

Secondly: A 5<sup>th</sup> paragraph shall be added to the Article in the following manner:

5. During the marriage contract, the wife can set as a condition the ability to divorce her husband.

In Article 6 (d)<sup>456</sup> of the personal status law, the marriage contract required a certificate for two witnesses. Since the source of the Iraqi personal status law is Islamic law, this means that the testimony of the man is equivalent to that of two women. In contrast, the Kurdish legislation required the testimony of two witnesses, where men and women are equal in this function. Also, the Kurdish legislation added a very important paragraph to this article, namely that the wife has the right to divorce her husband.

## **Section 3 – Validity**

Article 6: The validity of paragraphs 1 and 2 of Article 9 of the law shall be suspended and replaced with the following:

1- No relative or non-relative has the right to force marriage on any person, whether male or female, without their consent. The contract of a forced marriage is considered void if the marriage is not yet consummated. Even if

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<sup>455</sup>First wife in Kurdistan and second in Kirkuk, July 22/2013.

<http://kirkuknow.com/en/search>

<sup>456</sup> See the personal status law No. 188. <https://refworld.org.es/pdfid/5c7664947.pdf>

the marriage is consummated, the contract shall be suspended. Moreover, none of the relatives or other people have the right to prevent whoever is eligible for marriage from being married by virtue of the provisions of this marriage law.

2- A first-degree relative who breaches the provisions of paragraph 1 of this article shall be sentenced to two to five years [minimum of two years and maximum of five years]. If the person who breaches this provision is not a first-degree relative, he shall be sentenced to an imprisonment term varying from a minimum of three years to a maximum of ten years.<sup>457</sup>

Article 9<sup>458</sup> of the personal status law considered the marriage contract invalid if it is the result of force from any person, whereas it is not void if the marriage is consummated. So, for example, if a woman is forced to marry a man she does not like, the marriage contract will be valid if the marriage is consummated. Also, if anyone breaches the provisions of Paragraph 1 of this article he or she shall be sentenced to no less than two years and no more than ten years and charged a certain amount of money depending on his or her relationship to the victim. In contrast, the Kurdish legislation considered the marriage contract null and void even if the marriage is consummated. Moreover, the Kurdistan legislature has amended the punishment and increased the period of the imprisonment to a term of two to five years for first-degree relatives and a term of three to ten years for the other relatives.

#### **Section 4 – Registering the Marriage Contract**

Article 7: The validity of paragraph 5 of Article 10 of the law shall be suspended and replaced with the following:

5. Any man who concludes his marriage contract outside the court is punished with a fine varying between ID1m and IDm3. If he concludes another

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<sup>457</sup>Yaseen, Azadeen Abdulah (2012): the law no.15 of the year 2008: Amendment in the personal status law no. 188 of the year 1959 in Iraqi Kurdistan. Second edition. Erbil, Iraq.; see the personal status law No. 188. <https://refworld.org.es/pdfid/5c7664947.pdf>

<sup>458</sup> See the personal status law No. 188. <https://refworld.org.es/pdfid/5c7664947.pdf>

marriage outside the court when he is already married, the imprisonment penalty shall range between a minimum of three years and a maximum of five years.

Article 10<sup>459</sup> of the personal status law punished any man who marries outside the court with imprisonment of six months to a year or a fine of ID 300 to ID 1,000 . If the man is already married and marries an additional woman outside the court and consummates the marriage, the imprisonment penalty shall range between three and five years. To prevent or reduce such cases, the Kurdistan Parliament in the amendment increased the fine to between ID 1 million and ID million 3.

### **Chapter 3 – Matrimonial Rights and their Stipulations**

#### **Section 2 – The Wife’s Alimony**

Article 11: The validity of Articles 29 and 30 of the law shall be suspended and replaced with the following:

(If a husband leaves his wife, disappears, or if he is missing or jailed, leaving his wife without alimony, the judge shall rule for payment of alimony to her from the date of his departure; the social care fund shall pay her an estimated alimony.)

In Article 29 of the personal status law, if the husband leaves his wife without alimony or disappears, the court will award her alimony from the date of the lawsuit. In these cases, the wife remains without income from the period of her husband's departure to the date of the court's decision, especially if the wife has no job. To fill this gap, the amendment changed this period to start from the date of the husband's departure. Social welfare is then obligated to pay her the estimated alimony.

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<sup>459</sup> See the personal status law No. 188. <https://refworld.org/es/pdfid/5c7664947.pdf>

## Chapter 4 – The Dissolution of Marriage

### Section 1 – Divorce

Article 17:

Firstly: The validity of paragraphs 2 and 3 of Article 39 of the law shall be suspended and replaced with the following:

- (2) The husband shall be obliged to put a sum of money in a special family care fund with the court when he files a [legal -T-] suit for divorce.
- (3) If the husband divorces his wife and the court finds out that the husband is arbitrary in divorcing her and the wife is harmed because of it, the court shall rule based on the [legal] suit that the wife files that her husband has to pay a compensation that is proportionate to [commensurate with -T-] her financial status and the extent of his arbitrariness and severity. It shall be estimated to be an entire sum that has to be not less than her alimony for a minimum of 3 years and a maximum of 5 years, in addition to her other fixed rights.

Secondly: A paragraph numbered 4 shall be added to the Article in the following manner:

- (4) The [Kurdistan] Regional Government shall be committed to taking care of a divorced woman who has no monthly income and it allocates a monthly income for her until she finds a job or remarries.<sup>460</sup>

In Article 39 Paragraph 3<sup>461</sup> of the personal status law, a man has to pay alimony for no more than two years if the husband divorced her without reason and she was harmed by the divorce. The above amendment, on the other hand, safeguards the economic situation of divorced women by imposing on the husband compensation in proportion to his financial situation. For this, the husband is obliged to put aside a sum of money equivalent to three months' salary as a special fund from the start of

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<sup>460</sup>Yaseen, Azadeen Abdulah (2012): the law no.15 of the year 2008: Amendment in the personal status law no.188 of the year 1959 in Iraqi Kurdistan. Second edition. Erbil, Iraq.; see the personal status law No. 188. <https://refworld.org/es/pdfid/5c7664947.pdf>

<sup>461</sup> See the personal status law No. 188. <https://refworld.org/es/pdfid/5c7664947.pdf>



the case. Also, the husband should pay the alimony for at least 3 years up to 5 years. The government should also allocate the divorced woman a monthly amount until she finds a job or remarries.

## **Section 2 – Legal Separation**

Article 18: The validity of paragraph 5 Article 40 of the law shall be suspended and replaced with the following:

(5) If a husband marries a second wife, his first wife shall have the right to ask for separation.<sup>462</sup>

Article 40 Paragraph 5<sup>463</sup> of the Iraqi personal status law and Article 3 paragraph 1 item A in the penal code of 1971<sup>464</sup> prevent the wife from filing a legal suit against her husband if the husband marries another woman outside the court. This means, for example, that the marriage takes place without the wife's acceptance and without meeting the legal requirements (Article 7 Paragraph 1). The Kurdish amendment, however, gives the wife the right to request a divorce without any restrictions.

Article 19:

Firstly: The validity of paragraphs 1 and 2 of Item 1 of Article 43 of the law shall be suspended and replaced with the following:

1. If the husband is facing an incarceration for a period of three years or more, after serving one year of the term, the wife can request a divorce even if he can still provide for her needs.

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<sup>462</sup>Yaseen, Azadeen Abdulah (2012): the law no.15 of the year 2008: Amendment in the personal status law no.188 of the year 1959 in Iraqi Kurdistan. Second edition. Erbil, Iraq.; see the personal status law No. 188. <https://refworld.org/es/pdfid/5c7664947.pdf>

<sup>463</sup> See the personal status law No. 188. <https://refworld.org/es/pdfid/5c7664947.pdf>

<sup>464</sup>Iraqi Penal Code (1969), p. 105.

[http://law.case.edu/saddamtrial/documents/Iraqi\\_Penal\\_Code\\_1969.pdf](http://law.case.edu/saddamtrial/documents/Iraqi_Penal_Code_1969.pdf)

2. If the husband has abandoned his wife for one year or more without a legitimate reason, the wife can request a divorce even if his whereabouts are known and has such an income that she can spend from it.<sup>465</sup>

In the personal status law Article 43 Paragraphs 1 and 2,<sup>466</sup> there are many reasons for judicial intervention to help a wife obtain a divorce, including cases where the husband is facing a period of incarceration for three years or more or has abandoned his wife for two years or more without a legitimate reason. In both cases, the wife can ask for separation only after two years have passed. The new amendment gives more freedom to the wife by reducing the waiting times before she can ask for separation. In both of the above cases, the wife can ask for separation after only one year has passed.

### **4.5.3 Honor killing**

The Iraqi constitution in Article 29 (4)<sup>467</sup> forbids all types of violence, especially against women; Paragraph 409<sup>468</sup> of the Iraqi penal code states, "[a]ny person who surprises his wife in the act of adultery or finds his girlfriend in bed with her lover and kills them immediately or one of them or assaults one of them so that he or she dies or is left permanently disabled is punishable by a period of detention not exceeding 3 years. It is not permissible to exercise the right of legal defence against any person who uses this excuse nor do the rules of aggravating circumstance apply against him." This article allows men, relative to honor killing, to justify themselves in that this Article gives the man the right to kill without applying the provisions of murder.

In 2002, the KRG took the initiative to amend Iraqi penal code Number 111 Paragraph 409 by increasing the punishment for honor killings up to 15 years in prison, and considering the crime of honor killing as a willful or intentional murder.<sup>469</sup>

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<sup>465</sup>Yaseen, Azadeen Abdulah (2012): the law no.15 of the year 2008: Amendment in the personal status law no.188 of the year 1959 in Iraqi Kurdistan. Second edition. Erbil. Iraq.; see the personal status law No. 188. <https://refworld.org/es/pdfid/5c7664947.pdf>

<sup>466</sup>See the personal status law No. 188. <https://refworld.org/es/pdfid/5c7664947.pdf>

<sup>467</sup>Iraqi constitution: p. 10. [http://www.iraqinationality.gov.iq/attach/iraqi\\_constitution.pdf](http://www.iraqinationality.gov.iq/attach/iraqi_constitution.pdf).

<sup>468</sup>Iraqi penal code (1969): p. 105.

<sup>469</sup>Adil Hamid Zebari (2013): The pulse of Middle East, KRG fails to combat violence against women in Kurdistan, <http://www.al-monitor.com/pulse/originals/2013/02/violence-against-women->

This is supposed to have a major effect in reducing the increasing number of women killed in the name of what is called honor. Such radical laws and tough sentences are required because of the prevailing nature of honor killing in the Kurdish society.

#### **4.5.4 Domestic Violence**

Generally, the rate of violence varies from one country to another, in all cases causing risks and severe psychological harm to women. In Iraq, women are subjected to violence by their husbands, fathers, brothers or men in general. Paragraph 41(1)<sup>470</sup> in the penal code permits "[p]unishment of a wife by her husband, disciplining by parents and teachers of children under their authority within certain limits prescribed by law or by custom," allowing a husband to beat his wife to "discipline" her without stating any limits to the degree or manner of the term "discipline," which could be up to a severe degree of physical and psychological abuse.

On June 21, 2011, in Iraqi Kurdistan law No. 8 against domestic violence was passed. The second article of the law states, "[i]t is prohibited for any person associated with a family to commit violence — whether physical, sexual or psychological — within the family." According to this law, these categories are considered within the category of domestic violence: "Forced marriage, marriage by exchange, child marriage, marriage in exchange for blood money, non-consensual divorce, ending kinship relations, a husband forcing his wife to practice prostitution, female circumcision, and suicide as a result of domestic violence."<sup>471</sup>

This addition to the main law specified the types of violence and included the most common patterns of violence taking place in the society. The aggressor is punished by imprisonment for 6 months to a year, and fined between ID 1 million and ID 5

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kurdistan.html; Ahmed, Huda (2010): 'Iraq', women's rights in the Middle East and North Africa, in: Sanja Kelly and Julia Breslin edited by New York: Freedom House.

<sup>470</sup>Iraqi penal code no. 111, 1969, p. 12.

<sup>471</sup>Adil Hamid Zebari (2013): The pulse of Middle East, KRG fails to combat violence against women in Kurdistan. <http://www.al-monitor.com/pulse/originals/2013/02/violence-against-women-kurdistan.html>.

million.<sup>472</sup> However, according to the report, the application of the law was delayed and, when applied, not sufficiently.<sup>473</sup>

In addition to that, Iraqi law shows prejudice against women when the law states that they are responsible for adultery committed anywhere, while men are only legally responsible for acts of adultery committed in the marital home. In 2001, the Kurdistan Regional Government amended Article 377 in Law No. 9 to hold men accountable to the same degree as women; thus, a married man may be accused and found guilty of committing adultery whether the act is performed inside or outside the home.<sup>474</sup>

This was considered a positive step along the way to eradicating domestic violence in the KRG, however in the few years following the issuance of this law, violence against women was not stopped. Quoting from the report, Hazha Sulaiman, vice-chair of the Women and Family Committee in the Kurdistan parliament, said "[t]he law was not implemented on time. Now, although it's being implemented, it has not stopped violence as required, because Kurdish society has complex customs and traditions, including issues related to honor killings."<sup>475</sup> She also believes that the main factor obstructing the rule of law has something to do with educating people and raising their awareness within the families generally and specifically with regard to this law. She points out the significant links between the continuity of violence and lack of education. She stated also that according to the customs and traditions of the society, women who are subjected to violence do not report to the police, which make application of the law difficult.

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<sup>472</sup> Act No. 8 from 2011. [http://www.ekrg.org/files/pdf/combata\\_domestic\\_violence\\_english.pdf](http://www.ekrg.org/files/pdf/combata_domestic_violence_english.pdf).

<sup>473</sup> Adil Hamid Zebari (2013): The pulse of Middle East, KRG fails to combat violence against women in Kurdistan.

<sup>474</sup> Sulaiman, Ghuson (2013): Domestic violence against women in Kurdistan region: A case study of Duhok, Master Thesis: Duhok University-Iraq, p. 49.

<sup>475</sup> Adil Hamid Zebari (2013): The pulse of Middle East, KRG fails to combat violence against women in Kurdistan. <http://www.al-monitor.com/pulse/originals/2013/02/violence-against-women-kurdistan.html>.

#### 4.5.5 Preventing Female Genital Mutilation (FGM)

Female genital mutilation (FGM) or female circumcision means cutting all or parts of girls' external sexual organs and is considered internationally as violence against women, yet it is still carried out in Iraq.

It is believed to be a social tradition grounded in both religious and traditional practices in Iraqi Kurdistan, and females who are not subjected to FGM are considered undesired females, while circumcised girls receive more affection from their families.<sup>476</sup>

The Iraqi central government does not include this law, and the Iraqi constitution constitutes FGM as a sort of "assault" according to Paragraph 412<sup>477</sup> of the penal code, which states, "[a]ny person who willfully assaults a person by wounding or beating him or with the use of force or harmful substances or by committing another unlawful act with intent to cause permanent disability is punishable by a term of imprisonment not exceeding 15 years." Furthermore, there is no particular law which prevents FGM or domestic violence directly in the Iraqi central government.

The Kurdistan government, in comparison to the Iraqi central government, prevents FGM in law No. 8 Article 2 which is one of the important provisions of the Domestic Violence law, and went into effect in 2011 in Iraqi Kurdistan. The penalty is a fine of between ID 1 million and ID 5 million. Anyone who performs or contributes to performing FGM is sentenced to imprisonment for a period that ranges between 6 months and 3 years.<sup>478</sup> This law is in line with what is mentioned in the international agreement supporting women's rights and considers FGM a form of violence against women.<sup>479</sup> However, the law has not been implemented and many activists stress that

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<sup>476</sup>Iraq legal development project (2006): The status of women in Iraq: an assessment of Iraq's De Jure and De Facto compliance with international legal standards: American bar association 2005.

<sup>477</sup>Iraqi Penal Code 111 (1969), pp. 105-107.

[http://law.case.edu/saddamtrial/documents/Iraqi\\_Penal\\_Code\\_1969.pdf](http://law.case.edu/saddamtrial/documents/Iraqi_Penal_Code_1969.pdf).

<sup>478</sup>Yassen, Ezeden A. (2011): Amending some laws in the personal status code: In Kurdish language. First edition, Benaie Press, Iraqi Kurdistan-Sulaimani, p. 100; Act No. 8 from 2011. [http://www.ekrg.org/files/pdf/combat\\_domestic\\_violence\\_english.pdf](http://www.ekrg.org/files/pdf/combat_domestic_violence_english.pdf)

<sup>479</sup>Human Rights Watch (2012). <http://www.hrw.org/news/2012/08/29/iraqi-kurdistan-law-banning-fgm-not-being-enforced>.

the law should be implemented and more efforts have to be made, such as informing the public, police, and health professionals about the law and the practice itself.<sup>480</sup>

At a local level, Zuhur provides information in her research regarding Iraqi women's empowerment and public policy including Kurdistan, showing that starting in 2001 a number of liberal clerics in the area of Sulaimani, one of the main cities in the Kurdistan region (and the location of the field work research for this dissertation), released a fatwa in opposition to the practice of FGM, and medical team members began carrying copies of this fatwa during their visits to the areas that practice FGM.<sup>481</sup>

In addition, there are more efforts undertaken by the KRG to provide support to women, including establishing many shelters to protect women who are subjected to or threatened by any type of violence. This is also emphasized in the report by the International Rescue Committee's Iraq Country Program (IRC Iraq), stating that another important step besides law amendment was established by the GDTVAV<sup>482</sup> within the Ministry of the Interior (MOI) in 2007. GDTVAV has offices in the provinces of Erbil, Sulaimani and Dohuk.<sup>483</sup>

It is important to note that there are no data about the practice of FGM in different parts of Iraq. However, there are many organizations working to raise awareness around FGM in Iraq and Iraqi Kurdistan; one of these organizations is Wadi,<sup>484</sup> which is an NGO playing a major role in providing information and studies about the prevalence of FGM in most of the Iraqi Kurdistan area. These studies reveal that FGM is still practiced until now in Iraq in spite of the efforts to eradicate such practices.

To conclude this section on amendments to laws concerning women in Iraq and Iraqi Kurdistan, it is obvious that the amendments carried out by the KRG are more in

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<sup>480</sup>Human Right Watch (2012).

<sup>481</sup>Zuhur, Sherifa (2006): Iraq women's empowerment and public policy.

<http://www.strategicstudiesinstitute.army.mil/pubs/display.cfm?pubID=748>.

<sup>482</sup>GDTVAV -General Directorate for Tracing Violence against Women and Girls in Iraqi Kurdistan.

<sup>483</sup>International Rescue: Working Together to Address Violence Against Women and Girls in Iraqi Kurdistan, p.9. <http://www.rescue.org/resource-file/working-together-address-violence-against-women-and-girls-iraqi-kurdistan>

<sup>484</sup>Wadi – Association for Crisis Assistance and Development Cooperation – is a German NGO that supports programs of development, gender mainstreaming and conflict resolution in Northern Iraq, Israel, Jordan and Syria since 1992.

favor of women than those by the Iraqi central government. However, still more efforts are required to support the practice of such laws. I argue that the eradication of violence against women, such as the practice of FGM, is more complicated than assumed, since it is related to the traditions of the society. However, the Iraqi society is not a homogenous one, and differences in religion, culture, and social norms should be recognized.

## **Part Two**

### **Chapter Five: Research Methodology**

#### **Methodology Constructivist Grounded Theory (CGT)**

##### **5.0 Introduction**

This chapter presents the research methodology and starts by introducing the rationale behind using qualitative methods, discussing specifically why they are used in this research. The choice of methodology is based on the argument that since this research deals mainly with the lives of divorced women, the institutions that support them, the laws that influence their lives, and the question of whether these laws provide them with some sort of social security or protection, qualitative methods are best suited to gain a sufficient grasp of both the details of the situation and the overall picture.

In addition, the constructive ground theory (CGT) is taken as the main theoretical underpinnings of the qualitative methodology of this research, and different reasons for using it are presented here. This chapter also briefly presents the theoretical roots and connections of the CGT, as well as the procedures for data collection and data analysis.

In this research, the MAXQDA computer program was used for the coding process and to analyze the qualitative data. It should be noted that this is the first time that CGT methodology has ever been used in any field work dealing with Iraqi Kurdistan. For this reason, the present study provides a thorough description of the application of CGT.

At the end of the chapter, details of the research area (the province of Sulaimani) and sampling techniques are presented, keeping in mind that the use of CGT suggests specific sampling techniques. The theoretical sampling is mainly going to be discussed here.



## 5.1 The Rationale behind Using Qualitative Methods

Over the past decades, many methods and techniques, both qualitative and quantitative, have been used to interpret social situations and events. Qualitative data is represented by words, concepts and sentences, while quantitative data deals with statistics. Qualitative research is described by Neuman as using "logic in practice."<sup>485</sup> In qualitative research, data is studied in its normal and usual state to explain the research problem in the light of what people see and experience. The researcher uses different tools and methods in the field study to obtain more specific information in order to better reflect the reality; for instance, case studies, personal experiences, introspective accounts, life stories and interviews, as well as observational, historical, interactional and visual texts, all support describing the routines and problematic moments and meanings in individuals' lives.<sup>486</sup>

The significance of qualitative methods in this research is articulated by Punch, who explains that qualitative methods focus on studying people, their behavior, attitudes and events in their ordinary conditions.<sup>487</sup> The reason behind selecting such methodology is also explained by Strauss and Corbin, who state that the most important reasons behind choosing qualitative methods is the "nature of the research problem." This type of research tries to focus on the "experience of persons with the problem," and it allows the researcher to be near the people (the study's sample), discovering what their responsibilities and opinions are in many situations.<sup>488</sup> In this research, the qualitative method is selected due to the nature of the study, which deals with divorced women's daily lives and experiences, such as the violence they face,

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<sup>485</sup>Neuman, Lawrence W. (1994): Social research methods: Qualitative and quantitative approaches. USA: Allyn and Bacon, p. 318.

<sup>486</sup>Denzin, N. K. & Y. S. Lincoln (eds) (1994). Introduction: Entering the field of qualitative research. In: N. K. Denzin & Y. S. Lincoln (eds), Handbook of Qualitative Research, pp. 1-18. London: Sage. p.2; Neuman, Lawrence W. (1994): Social research methods: Qualitative and quantitative approaches. p. 318.

<sup>487</sup>Punch, Keith F. (1998): Introduction to social research: quantitative and qualitative approaches. London: Sage publications.

<sup>488</sup>Strauss, Anselm, Juliet Corbin (1998): Basics of qualitative research: Techniques and procedures for developing grounded theory. USA: SAGE Publication, p.11.

their interaction with institutions, their understanding of laws and their opinions. This study also asks whether these divorced women are socially and physically protected by their society's laws and looks at the obstacles that they face in spite of the existence of these laws. All of these issues cannot be quantified and explained in numbers or statistics. Qualitative methodology is supposed to support the researcher to understand the reality of the studied cases.

It is noteworthy that quantitative research studies are increasingly used by students and professors in many Iraqi Kurdistan universities, and also by many NGOs and GOs; this research tries to provide a detailed description of methods and methodology in order to fill the gap in the literature around the use of qualitative methods in Iraq.

However, qualitative thinking is not homogenized; therefore, there are many approaches to conducting a qualitative research study. This research focuses mainly on the use of constructive grounded theory (CGT), which is the theoretical framework guiding the research steps and procedure from beginning to end. Before going into the discussion on CGT, a brief introduction on constructive thinking is essential to understand the theoretical base of CGT.

## **5.2 Constructivism as a Qualitative Methodological Approach**

The concepts of truth and reality are central to the constructivist approach, although they are understood differently. From the constructivism point of view, the reality is that the researchers are influenced by their history and cultural context. This influence, in turn, shapes their view of the world, the power of construction, and the value of truth. For Mills et al., constructivism is a research paradigm that questions the existence of an objective reality, arguing that realities are constructive socially in our minds. As we are socialized, this constructive reality is shared among us as human beings.<sup>489</sup> Moreover, epistemologically, constructivism underlines the subjective interrelationship between the researcher and research respondents, and the construction of meaning and reality during the research process. Thus, according to this paradigm, the researcher as a human being builds relationships and interacts with respondents as part of the research, and cannot be merely an objective observer. This also means that the researcher comes to the research site with previous knowledge and

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<sup>489</sup>Mills, Jane, Ann Bonner, Karen Francis (2006): The development of constructivist grounded theory, in: *International Journal of Qualitative Methods* 5 (1), p.2.

values which should be taken into consideration and not ignored.<sup>490</sup> The work of Kuhn from 1959<sup>491</sup> was significant in building the concept of constructivism. Kuhn argues that a “scientist is not an innovator but a solver of puzzles, and the puzzles upon which he concentrates are just those which he believes can be both stated and solved within the existing scientific tradition.”<sup>492</sup>

Charmaz, supporting the idea of constructivism, argues that following a constructivist approach is to remain open to ideas coming from the field and is not about conducting research with no prior ideas or skills. Dey remarks that “there is a difference between an open mind and an empty head.”<sup>493</sup> The core concept in constructivism is the theoretical sensitivity discussed by Strauss and Corbin,<sup>494</sup> who argue that theoretical sensitivity is part of the basics of qualitative research and relate it to the researcher’s awareness of the meaning of data. “One can come to the research situation with varying degree of sensitivity depending on one’s previous reading and experiences with or relevant to an area.”<sup>495</sup> Keeping all this in mind, the next step is to explain the CGT and its application in this research.

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<sup>490</sup>Mills, Jane, Ann Bonner & Karen Francis (2006): The development of constructivist grounded theory,p.2.

<sup>491</sup>Riegler, Alexander (2012): Constructivism. In: L’Abate L. (ed.) Paradigms in theory construction. New York: Springer, pp. 235–256, p. 234.

<sup>492</sup>Riegler, Alexander (2012) Constructivism. In: L’Abate L. (ed.) Paradigms in theory construction. p. 234.

<sup>493</sup>Charmaz, Kathy (2006): Constructing grounded theory: A practical guide through qualitative analysis. UK: Sage, p.30.

<sup>494</sup>Strauss, Anselm & Juliet Corbin (1998): Basics of Qualitative Research: Techniques and procedures for developing grounded theory. USA: SAGE Publication.

<sup>495</sup>Strauss, Anselm & Juliet Corbin (1990): Basics of Qualitative Research: grounded theory procedure and techniques, USA: SAGE Publication, p.41.

### 5.3 Constructivist Grounded Theory: Theoretical Context

Grounded theory (GT) was devised by Glaser and Strauss and first appeared in their book "The Discovery of the Grounded Theory" published in 1967, which contained the basic ideas of the theory. The primary idea of GT is to build a theory that is grounded in empirical data about some important phenomena in people's lives<sup>496</sup> in an inductive way.<sup>497</sup> According to the initial idea of GT developed by Glaser and Strauss, the researcher has to have no preconceived ideas to support. Instead, the main issues have to emerge from the respondents' interviews. The researcher then uses the method of constant comparison to analyze the interviews and the data he collected from the field and from the respondents. In the words of Mills, the researcher employs a comparison "...initially of data with data, progressing to comparisons between their interpretations translated into codes and categories and more data. This constant comparison of analysis to the field grounds the researcher's final theorizing in the participants' experiences."<sup>498</sup> The researcher has to keep a certain distance from the data and let the instant comparison be the main determinant of the theory produced.

Charmaz argues that although GT is based on the book by Glaser and Strauss published in 1967; it should be remembered, however, that these two thinkers came from opposing theoretical research backgrounds: while Glaser represented the positivist thinking of Columbia University, Strauss brought to GT the pragmatism and field research thinking of the Chicago School.<sup>499</sup> Glaser contributed the epistemological assumptions, and the logic and the systematic approach, and thus the idea that theories have to be discovered. Meanwhile, from the Chicago School, Strauss brought the view of "human beings as active agents in their lives and their

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<sup>496</sup>Glaser, Barney, Anselm L. Strauss (1967): The discovery of grounded theory: strategies for qualitative research. Chicago. Aladine publishing; Strauss & Corbin (1998).

<sup>497</sup>Mills, Jane, Ann Bonner & Karen Francis (2006): The development of constructivist grounded theory, pp. 2-3.

<sup>498</sup>Mills, Jane, Ann Bonner & Karen Francis (2006): The development of constructivist grounded theory, p.3.

<sup>499</sup>Charmaz, Kathy (2006): Constructing grounded theory: A practical guide through qualitative analysis, p. 7.

worlds, rather than as passive recipients of larger social forces"<sup>500</sup>.According to his perspective: theories are constructive and not discovered.

However, by the mid-1990s, the two approaches had separated: Glaser maintained his view on GT, while Strauss continued to work with GT and develop the main essence of the GT together with Corbin. Strauss and Corbin pointed out that "grounded theory is not generated a priori and then subsequently tested. Rather, it is inductively derived from the study of the phenomenon it represents."<sup>501</sup>Any researcher who uses GT finds out that he or she must choose between these two approaches depending on the nature of research.<sup>502</sup>

Considering that in this research, I acknowledge my previous knowledge, information and ideas, I am using the Constructivist Grounded Theory. The methodology of Charmaz is based on providing a guideline and detailed procedures on how to use CGT, which is the main methodological context of this research. Charmaz argues that "[u]nlike their position (classic GT works of Glaser and Strauss), I assume that neither data nor theories are discovered. Rather, we are part of the world we study and the data we collect."<sup>503</sup>

Charmaz defines GT as "methods consist[ing] of systematic, yet flexible guidelines for collecting and analyzing qualitative data to construct theories 'grounded' in the data themselves."<sup>504</sup>Charmaz suggests a systematic procedure to collect and analyze data in order to construct a theory that is grounded in data and explains it as follows:

"We construct our grounded theories through our past and present involvements and interactions with people, perspectives and research practices... Research participants' implicit meanings, experiential views and researchers' finished grounded theories are constructions of reality... in keeping with Chicago School antecedents, I argue for building on the

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<sup>500</sup>Charmaz, Kathy (2006): Constructing grounded theory: A practical guide through qualitative analysis, p. 13.

<sup>501</sup>Pandit,Naresh R. (1996): The creation of theory: A recent application of the grounded theory method: The Qualitative Report 2(4). <http://www.nova.edu/ssss/QR/QR2-4/pandit.html/pandit.html>

<sup>502</sup>Mills, Jane, Ann Bonner & Karen Francis (2006): The development of constructivist grounded theory, p.3.

<sup>503</sup>Charmaz, Kathy (2006): Constructing grounded theory: A practical guide through qualitative analysis, p.10.

<sup>504</sup>Charmaz, Kathy (2006): Constructing grounded theory: A practical guide through qualitative analysis, p.2.

pragmatist underpinnings in grounded theory and advancing interpretive analyses that acknowledge these constructions.”<sup>505</sup>

Other researchers have also defined grounded theory as “a qualitative research method that uses a systematized set of procedures to develop an inductively derived grounded theory about a phenomenon.”<sup>506</sup>

## **5.4 Procedures of CGT**

### **5.4.1 Collecting Data: Entering the Field**

Generally, the procedures of grounded theory are designed to develop a well-integrated set of concepts that provide a thorough theoretical explanation of the social phenomena under study. Grounded theory has three essential elements, which are used in the process of analyzing: concepts, categories, and propositions (assumptions).<sup>507</sup> It is organized in steps, starting from the investigation of reality ‘live,’ therefore the following steps have to be taken in order to build the grounded theory. These steps are the following: “Review of technical literature, Selecting cases, Developing rigorous data collection protocols, Entering the field, Data ordering, Analyzing data relating to first case, Theoretical sampling, Reaching closure, Comparing emergent theory with extant literature.”<sup>508</sup>

However, since this research uses Charmaz’ guidelines to construct a theory grounded in data, the procedures suggested by Charmaz are used.

Data collection under CGT is directed to collect information and details that support the construction of the theory; therefore specific cases and theoretical sampling is used.

Regarding the data collection, I conducted three phases of data collection which are explained next. Here, I would like to note that I explained the process of going into

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<sup>505</sup>Charmaz, Kathy (2006): Constructing grounded theory: A practical guide through qualitative analysis, p.10.

<sup>506</sup>Laws, Kevin & Robert Mcleod (2006): Case study and grounded theory: Sharing some alternative qualitative research methodologies with systems professionals, p.8.

[http://www.systemdynamics.org/conferences/2004/SDS\\_2004/PAPERS/220MCLEO.pdf](http://www.systemdynamics.org/conferences/2004/SDS_2004/PAPERS/220MCLEO.pdf)

<sup>507</sup>Pandit,Naresh R. (1996): The creation of theory: A recent application of the grounded theory method.

<sup>508</sup>Pandit,Naresh R. (1996): The creation of theory: A recent application of the grounded theory method.

the field in detail due to the importance of the events and changes in the situation of the KRG. Also through these details, I present some of the difficulties that I faced during the gathering of the data and the difficulties that I faced while connecting to the divorced women. Here, I will start to explain the steps that I followed in the field.

#### **5.4.1.1 Research Area and Selection of Cases**

The Kurdistan region (KRG), or Iraqi Kurdistan, is located in the north of Iraq. Its area is about 80,000 sq. km, which equals around 18% of the total area of Iraq. The Kurdish population in Iraq is about six million, inhabiting the provinces of Sulaimani (Sulaymaniyah), Erbil, and Duhok.<sup>509</sup> The Sulaimani Governorate, which is the subject of the field research in this study, is located in northeastern Iraq, bordering Iran to the East and sharing borders with the Governorates of Erbil, Kirkuk, Diyala, and Salah Al-Din. Sulaimani city consists of eleven districts: Sulaimani, Chamchamal, Darbandikhan, Dokan, Halabja, Kalar, Penjwin, Pshdar, Ranya, Sharazoor, and Sharbazher.<sup>510</sup> Thus, it is considered the second largest city in Iraqi Kurdistan.<sup>511</sup> The area of Sulaimani covers 18,023 sq. km, with a population of 1,894,618.<sup>512</sup> A purposive sampling technique was used to select Sulaimani as a case study for this research. The reason behind choosing Sulaimani city as a research area is that Sulaimani is composed of more districts than the other provinces in the Kurdistan region. Therefore, it is more populated which allows for cases with different attributes and facilitates finding patterns of behavior more readily. Also, Sulaimani city is considered one of the "progressive"<sup>513</sup> cities in Iraq, and women enjoy more rights and freedom compared to the other cities.

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<sup>509</sup>Fischer-Tahir, Andrea (2010): Competition, cooperation and resistance: Women in the political field in Iraq, in: *International Affairs* 86(6), pp.1381-1394, p.56.

<sup>510</sup>Ibrahim, Anwer (2012): Promoting women's participation in decision-making at the local level: A case study of Barzan sub-district in Kurdistan region of Iraq, PhD. Thesis: TU-Dortmund University, p.3.

<sup>511</sup>Harkness, Geoff (2015): Spring forward female Muslim soccer players in Iraq. In *Soccer in the Middle East*. Raab, Alon, Khalidi, Issam: Routledge, Taylor and Francis, London and New York, pp.102-120, p.104.

<sup>512</sup>UNHCR (2006): Sulaymani Governorate assessment report

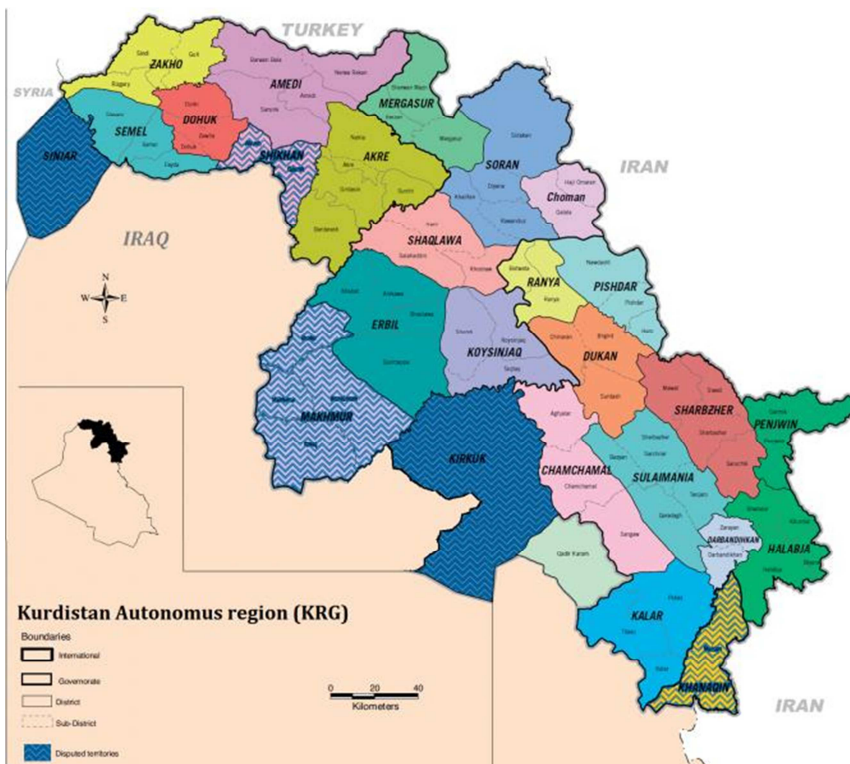
<sup>513</sup>Harkness, Geoff (2015): Spring forward female Muslim soccer players in Iraq. In *Soccer in the Middle East*, pp.102-120, p.104.

This study analyzes the cases of divorced women selected from the Sulaimani province. A divorced woman is a woman who is separated legally from her husband.





Map no. (1) Iraq and KRG.



Map no. (2) KRG.

### **5.4.1.2 The Political and Economic Situation in Iraqi Kurdistan during My Visit**

From the first day of my visit to Iraqi Kurdistan at the end of December 2014, I could feel that everything was much different than when I left Kurdistan at the end of December 2012 to go to Berlin. People were talking about the war against ISIS and the conflicts taking place. People were confused and disappointed about what was happening. I talked to people, family members; I was also carefully following the newspapers and the events taking place.

Politically, there was a sort of crisis between the Iraqi Kurdistan regional government and the central government of Iraq. This political crisis cast its shadow on the economic situation in the Iraqi Kurdistan region, which depended on the revenues distributed from the central government, according to the Iraqi Constitution (Article 111) that is concerned with the distribution of resources such as oil and gas, as well as power sharing. The state's "Oil and gas are owned by all the people of Iraq in all the regions and governorates."<sup>514</sup> Moreover, in the article that follows it, the Iraqi Constitution grants the federal government more authority in the management of existing oil and gas fields, but a shared authority with local governments.

The relationship between the Kurdish leadership in the federal administration and the central government in 2014 has entered into a stagnation period<sup>515</sup>, compared to the previous three years that followed the downfall of the former Iraqi regime. During these three years, there were many political activities taking place to bring the KRG and the central Iraqi government closer through intensive negotiations - which did not, however, continue.<sup>516</sup>

These differences and problems are reflected clearly in the lives of citizens in the Kurdistan region of Iraq, more than any other time in history. Kurdish banks declared the unavailability of cash money, and most of the government employees did not receive their salaries for three months. A recession hit the markets and the purchasing

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<sup>514</sup>Iraqi constitution, 30 Jan .2006. [http://mnr.krg.org/images/pdfs/Iraqi\\_Constitution.pdf](http://mnr.krg.org/images/pdfs/Iraqi_Constitution.pdf).

<sup>515</sup>For more please see appendix no. (1 ). <http://cabinet.gov.krd/a/d.aspx?s=010000&l=12&a=18704>

<sup>516</sup>For more please see appendix no. (1 ).

power declined dramatically.<sup>517</sup> Markets showed very slow trade, and many shops announced sales reducing prices by up to 50%.

KRG officials announced that Baghdad was not sending the region's share of the budget revenues, and worse, that the central government in Baghdad was using this during the negotiations as pressure. Some newspapers declared that the government in Baghdad was imposing an "economic blockade" on the Kurdistan region.

The KRG's statistics revealed that more than 700,000 inhabitants of the region were working in the public sector and had not been paid for three months.

Delays in the payment of salaries to government employees led to many strikes and demonstrations by teachers and health workers who threatened to close schools and hospitals. The KRG asked Kurdish businessmen to deposit their money in the states' banks in order to be able to pay the government employees, however the plan failed to solve the problem.

There was hope among people that government employees were going to get their salaries, but people lost confidence that the two governments were going to reach an agreement that suited both sides.

Within the scope of the research, and to show how this crisis could affect women, I describe my experience of the impacts of the financial burden in government departments. During my visit to the office of the coordinator of the shelters, I heard her calling and asking some NGOs for food because they were unable to feed the women living there. She also asked for fuel to be able to transport sick women to hospitals and she asked for clothes for the next summer, which was also mentioned in the interviews with the women living in the shelter. As described in detail elsewhere in the dissertation, this shelter in Iraqi Kurdistan is specifically receiving women whose lives are threatened and who do not have any place to live.

Another significant political aspect is the war against the Islamic State of Iraq and Sham (ISIS) that has attracted great attention in the region, as I noticed during my visit. The first thing I noticed on my way from the airport to my house was how many

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<sup>517</sup>Sabah Qadori (2006): Problematic oil between the Kurdistan region and the central government, Modern Discussion. <http://www.ahewar.org/eng/main.asp?code=eng>.

houses were showing signs of mourning.<sup>518</sup> As I expected, these were the Kurdish soldiers (Peshmerga) who died in their war against ISIS.

I knew about the details of this war from my family, relatives and the newspapers, how ISIS seized many cities and towns, most importantly the area around Mosul, Kirkuk (the disputed city) and the Sinjar mountains, that belong to the religious Kurdish sect of the Yazidis. ISIS also seized Makhmur city in Nineveh province, a city located only 20 minutes from the Kurdish capital of Erbil. It was clear that ISIS was threatening the Kurds. The Peshmerga were fighting against ISIS on the ground to regain cities and areas that were seized and were trying to protect their nation in the absence of any formal Iraqi military forces. However, the Peshmerga themselves did not receive their salaries and I observed that they were borrowing money to rent a car, for example, to go back to the war zone. The Peshmerga were supported by the international community and the international alliances that fight ISIS, including through airstrikes, but the Peshmerga themselves lack military equipment and financial and technical support. Many of the Peshmerga were killed in the war, yet they continued fighting; in my family's home near Kirkuk we could hear the bombs.

Something important to mention here is that most of the areas regained by the Peshmerga are now under the control of the KRG. Some of these places were disputed by the KRG and the central government in the past, but now after they were regained by the Peshmerga they are under the control of the KRG. Among these areas are Kirkuk, Mosul, Tal Afar, the city of Rabiaa and some parts of Diyala province. However, the Kurds are suffering the loss of their sons and other family members, and many more women are becoming widows.

Hearing all these sad stories and conducting interviews with people who were affected directly by the deteriorating situation, as well as seeing family members and relatives suffer, affected me emotionally to a great extent.

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<sup>518</sup>People put up tents outside the house for visitors who come to express their condolences for the loss of some of the household's family members. In this case, as I explained, these people were killed during the war against ISIS.

### **5.4.1.3 Introducing and Positioning Myself**

Despite the difficult situation in Iraqi Kurdistan, I was able to conduct the interviews as planned. The instabilities presented barriers to conducting the interviews, since people were feeling insecure and were basically scared of everything. I had to use my social network of family members, neighbors and acquaintances in order to get permission to conduct the interviews.

I started contacting people I knew and experts whom I wanted to interview. Before traveling to Iraqi Kurdistan, I sent emails and messages through Facebook and Viber and received good responses from many of them.

The first step was to visit the University of Sulaimani to discuss my plans. Moreover, I needed an official letter from the university to do the field work. Some of my initial contacts informed me of the need for this letter; I used the letter that contained information about me and my research and what is my aim, to collect information from people, governmental institutions and organizations that it always needs prior approval. This was very important because the situation was not stable, and verification was needed to identify a person and his or her purpose behind conducting their interviews.

I thought also to use this letter to introduce myself to the respondents. I believed that this letter would give me a more neutral position as an academic person at the university who is doing her PhD research and who does not belong to any political party or religious institution. This played an important role in how respondents would perceive me in particular due to the political tensions that were currently taking place in Iraqi Kurdistan. Indeed, the letter supported me, and because of the bureaucratic system in Iraqi Kurdistan, these documents verifying the institution to which a researcher belongs and granting permission to collect data in special offices are extremely important, as no one can get into a formal or even informal institution without that. I was constantly asked about this letter, for example in the office of the Ministry of Labor and Social Affairs, in order to get permission to visit the shelter and some NGO offices as well. Each time I showed the letter, the officers in charge showed immediate signs of relief.

The letter had another advantage. In the first interview with Parwsh, a pseudonym of a divorced woman working as the manager of a department in one of the official offices, I showed her the letter and she read it and said:

“Oh, you are doing your PhD in Germany, this will be less problematic, since you are studying in Germany and not here, because here everything anybody says gets them in trouble, but in Germany nobody knows me.” She mentioned that in Sulaimani city you can find a person very easily if you know his or her place of work or residence, thus people are extremely careful about what they say to avoid repercussions. So, in the other interviews I mentioned that I was doing my PhD in Germany, and the interviewees also asked me if the research was going to be published in English. I found this a very supportive situation, one which opened more doors and presented more opportunities for me to conduct interviews and to be accepted and welcomed by the respondents.

#### **5.4.1.4 Starting with Expert Interviews**

Following my submitted proposal, I started with the expert interviews<sup>519</sup> to direct me to respondents using snowball sampling. The interviews were about how to connect with women, who were single/ divorced, and how to interview more experts who were working in women’s rights or in other institutions the respondents knew of or who were in their networks that seem to be linked to my research topic.

I started with Mr. Jaza Hama Salih, coordinator of the International Sociological Association (ISA) in Sulaimani. I called him to introduce myself and my research topic and asked for an appointment to conduct an interview. However, he was ill on the day of the appointment, but he left a note that I could talk to his assistant Mr. Akam, a social researcher. I could not conduct the interview as I had planned, but I focused on discussing the nature of the association’s work and discussed the opportunities for reaching single women. One of the main outcomes of this interview was that I decided to visit some evening schools that he directed me to during the interview. These schools provide evening classes for women who missed the chance to get a regular education and for illiterate women who are offered literacy classes. He said that most of those women were unmarried or divorced.

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<sup>519</sup>Expert interview: In this research it means interviewed persons who are active and working in projects that relate to women, like protecting women projects or raising awareness of women and who are working with NGOs or GOs that support women or government institutions that protect women. Those persons are thus considered to have knowledge of women’s problems and difficulties.

The expert interviews took on average between 16 and 56 minutes and most of them were conducted in offices or institutions or in a public place such as a café, so that the interviews' environment was suitable to record. However, I could not conduct any group interviews with experts or social workers as I planned because, as mentioned before, most of the employees were striking and the work rhythm was not normal or conducive to group interviews.

I conducted expert interviews with government officials and NGO workers in the field of women's protection, as well as women's rights activists, journalists and two lawyers. There was no specific or unified set of questions; the questions were designed for every interview separately according to the theme and nature of the respondents' work.

Of the government officials, I interviewed Kaml Tawfeq<sup>520</sup> from the General Directorate of Combating Violence against Women in Sulaimani on 19 January 2015. I conducted an interview with another officer, Barham Ahmed,<sup>521</sup> to get more insight into their work in Sulaimani city and surrounding areas. I also conducted an interview with Runak Faraj Rahim, who was a member at the government's High Council for Women's Affairs - Iraqi Kurdistan on 05 February 2015; she is also the manager of Rewan, a women's newspaper. I interviewed Chemn,<sup>522</sup> who is a judge in the court system at Sulaimani, who refused to use her real name as she is also the head of the Family Court. As I intended to interview one of the women in parliament, I interviewed Kazhal Hadi Faqi, who spoke about the processes of issuing and amending laws in Iraqi Kurdistan. I also interviewed Prshng Karem, who is the government coordinator of the all programs concerning women's issues in the Ministry of Labor and Social Affairs and the manager of the department for protecting families.

Further, on 08 February 2015, I interviewed the journalist Hana Shwan Hassan, who works at the women's newspaper Rewan. She writes about women's issues in Iraqi Kurdistan. I interviewed Shokhan Hama Rashid. She is a lawyer and the head of the Women's Legal Assistance (WOLA), an NGO providing different types of support to

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<sup>520</sup>KamlTawfeq: a pseudonym.

<sup>521</sup>Barham Ahmed: pseudonym.

<sup>522</sup>Chemn: pseudonym.

women. We discussed Law no.8 of 2011, the constitution, the criminal law and other laws concerning divorced women's rights.

I also interviewed NGO officials including Sakar,<sup>523</sup> a social researcher working at WOLA. She spoke about the available programs to raise women's awareness, focusing on women's rights and legal issues. Indeed, I was lucky to attend a conference held in Erbil (Hawler) city, the capital of the KRG. The conference was about the laws concerning women in general, Law no.8 of the year 2008 and the law about FGM. During this conference, I was able to meet many NGO workers, members of parliament, politicians, and social researchers who were in attendance. I could conduct informal conversations and arrange interview appointments. I participated actively in the conference panels and presented my suggestions as to how to make laws concerning women more effective. I was also able to arrange interviews with Mam Pola, the manager of the German NGO Hawkare, and Parez, who works as an administrator at Hawkare.

I also conducted interviews with other NGO officials, including Karzan, a manager at the council department in Hawler city and Neshtman, who is a women's activist. I interviewed Abdulla Saber Wadi who works at the WADI, an NGO launching women's projects, and Jwan, a case manager in Assuda who spoke about the situation of women in general, and Salah Ahmed, the manager of the Jiyan foundation for human rights.

In the shelter, besides interviewing the divorced women, I also conducted two expert interviews with Sara.<sup>524</sup> She explained in the interview how laws could or could not support women and why. I also interviewed Layla Shaml,<sup>525</sup> who is a psychological researcher working with the cases of women living in the shelter.

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<sup>523</sup>Sakar: pseudonym.

<sup>524</sup>Sara: pseudonym.

<sup>525</sup>Layla Shaml: pseudonym.



### **5.4.1.5 Visiting the Sulaimani Shelter**

This was the most difficult part of the fieldwork, since I spent a long time getting permission to conduct interviews there and following the many rules and regulations of the institution. It was also not safe, since these institutions are under threats of violence and are watched carefully by the security forces and society.

I had to meet the coordinator of the Sulaimani shelter in the Office of Labor and Social Work and ask for permission. However, I got the permission quickly because I asked one of my friends to connect me with the coordinator. The coordinator of the shelter transferred me to Mrs. Parween,<sup>526</sup> who is responsible for the all-women's programs in the ministry's Office of Labor and Social Work. She asked me why it was important for me to conduct these interviews, and I had to explain my research in detail. I explained that I was not a journalist and that was doing my PhD in Germany, and that all the information would be analyzed scientifically and not for personal use or other purposes. After speaking with her for more than 30 minutes, I was given the final permission.

I went to the shelter and again I had to listen to the rules and regulations, including the following: I was not allowed to take any recorders or cameras with me, not even a mobile (except some paper and a pencil). My handbag had to stay in the office of the shelter's supervisor. I was not allowed to take pictures by any means. I was to come on time. During the interviews, I was not to ask for full names or anything that would identify the women I interviewed. Moreover, the supervisor came in twice during the interviews but did not stay with us; she only looked around and left.

Every time I entered the shelter I was asked to show my ID card at the main door and I had to show it to the guards outside the shelter as well. The last few times, I was able to make conversation with the guards and the workers in the shelter, since they started to recognize me. All these rules and regulations were supposed to keep the women living in the shelter safe. However, as I could not record the interviews I conducted there. I wrote them all down, and that is why I had to go there many times, because I could not finish the interviews in three or four days as originally expected. Nevertheless, I considered this a good situation, because it allowed me more chances to observe and try to understand the life of the women in the shelter. I could observe

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<sup>526</sup>Parween: pseudonym.

the women around me and what they were doing. I also had to write up my notes immediately after I left the shelter if I had not finished them during my time or when I had additional notes and observations.

Even if it was hard to conduct the interviews on a practical level, it was even more difficult for me to control myself when I heard the difficulties that these women experienced, especially always thinking that I could not do anything for them. I felt so sad, even crying when I returned home. Even though it was so complicated considering all these restrictions, I got good information from these interviews and I consider them very crucial for the research because of the density of information and detail.

#### **5.4.1.6 About the Shelter**

The shelter I visited is located in Sulaimani. The shelter itself is an interesting story and I will start by describing the shelter building: the walls of the shelter were a bit higher than the surrounding houses. It was composed of approximately 6 rooms on the first floor; most of them were offices for the clerks who worked there and a reception area that was used for the visitors from NGOs or whoever came to the shelter. There was a fitness room and a room for the medical services; a nurse who came to the shelter to check on sick women sat there. There was also a big yard. On the first floor there was a kitchen and a big dining room. I could not enter the second floor, but during the interviews, respondents mentioned that there were five rooms there, three big rooms for all the women and a smaller room, occupied by a woman who was shot by her husband; she was severely injured and had undergone extensive surgery. During my visit, she was recovering from her injury, which made her unable to do many things by herself. She could not even walk without support. I was not able to interview her, but I could interview a young woman named Case no 3, a divorced woman who was taking care of this woman and who was living in the shelter because her family was threatening to kill her. Case no 3 was living with the injured woman in the same room because she volunteered to look after her. The last room was for the supervisor. One of the two supervisors was supposed to be in the shelter during the day and the other one during the night. Both of them were government employees.

Approximately 25 women were living in the shelter when I visited. But, as the social worker mentioned, sometimes there were between 25 and 50 women and it became

very crowded. The women shared rooms in the shelter. There was one kitchen where there was a female cook and a supporter for cooking meals; the women cleaned their rooms by themselves, although there was a cleaner who came to clean the shelter. In an interview with a social worker, she explained that there were 34-38 employees working there (supervisor, six social workers, two cooks and the manager, with five clerks for the administrative tasks, a lawyer and 4 cleaners, two people responsible for the shelter store, and two women working at the reception in shifts), all of them female. However, there were also four to six male guards who worked in shifts and three male drivers as well.

In the shelter, there were many women with their children. Most of them told me that it was very difficult to stay enclosed in such a small place where there was no place for the children to play. Children were allowed to live with their mothers; several respondents told me that this was not a healthy place for children, however, because some women were shouting in the middle of night or changing their clothes in front of the children or talking in a way that children were not supposed to hear. Even very young children were eating the same food as the adults, and the ones who were supposed to go to school could not go because they were not allowed to even go outside the shelter walls.

At the time when I visited the shelter in 2015, Iraqi Kurdistan was experiencing a very difficult economic situation. Talking to a social worker, she mentioned that the shelter was going through difficult times as well, because they normally depended on funding from the government, the KRG. Some NGOs also supported the shelter, but the money from the government was not being paid every month. In 2015, no funds were received for months on end because of the economic problems. The social worker stressed that during this time they were only supported by NGOs, mainly the Jian foundation for human rights,<sup>527</sup>Haukari,<sup>528</sup> ASUDA<sup>529</sup> and many others. The NGOs provided the shelter with foodstuffs like rice, oil and sugar, but also with clothes. After the interview with the supervisor, I conducted expert interviews with workers of these NGOs. Many of the occupants I interviewed complained that the shelter was not

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<sup>527</sup>Jian foundation for human rights: for more please see <https://www.jiyan-foundation.org/>.

<sup>528</sup>Haukari association for international cooperation. <https://www.haukari.de/>

<sup>529</sup>ASUDA for Combating Violence against Women. <http://www.asuda.org/>

offering them enough food or the same food every day. This was all because of the economic difficulties.

#### **5.4.1.7 The Process of Starting Interviews for the Case Studies**

Following the narrative interview method, I started each interview with a brief introduction that my research was about “the situations of women in Iraqi Kurdistan.” Then, I asked the question “Can you please tell me your life story? I am interested in your whole life, anything that occurs to you. You have as much time as you like, I will listen and make notes and I am not going to interrupt you.”<sup>530</sup> I let the respondents talk freely without interruption, except when they asked me things like “is this enough, or should I continue?” When they stopped talking, I asked whether there were any other events or topics they wanted to talk about, and then I started asking specific questions until the end of the interview.

In the interviews, I carefully watched the participant’s body language, such as facial expressions, to get indications about whether they were feeling comfortable or happy with what they were saying. Sometimes, I decided to interrupt or ask a question when I felt the respondent was not feeling comfortable.

As I mentioned before, after the expert interviews, I started interviewing women at the evening schools in Sulaimani and then I expanded the group of respondents after I visited more institutions.

The first step was my visit to the office of school administration that was responsible for the evening schools to ask for formal permission to do the interviews. After I got the permission letter, I visited three evening schools. In the schools, they have social workers who are responsible for providing social support for students. The social worker supported me by offering a room for the interviews and supported me in selecting cases because they already knew the students very well.

I was also directed to go to a center for family meetings and counseling services (jezhwane khezane), a place where families of divorced parents meet with their children. I was able to find divorced mothers there who were bringing their children to see their fathers, or vice versa. In this center, I interviewed some divorced women and men; however, I did not analyze the men’s interviews.

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<sup>530</sup> Adopted from Rosenthal 2004, p. 51.

I observed some differences between women I interviewed from rural and suburban areas and women from the city center. The women from suburban and rural areas spoke clearly and seemed to feel freer to talk; I conducted very long but interesting interviews that went on to discuss even their sexual lives and behaviors. With the women from the city, however, I needed more time until I felt that they started to go deeper into their personal lives.

In the beginning, I tried to arrange interviews in the houses of the women I wanted to talk to. The women welcomed me, but when they talked with me about their life story they were not speaking freely because other members of the household interrupted our interviews. That is the reason why I decided to meet women in the evening schools or at the offices of the NGOs.

#### **5.4.1.8 Introducing the Research Sample**

I would like here to introduce the research sample using the primary criteria that I used to select the first cases, such as age, education and work status; these criteria were not strictly adhered to when I added new cases. When I added new cases, I tried to get a sample that represented different theoretical criteria in order to understand the differences between, for example, divorced women who were living in suburban areas and ones who were living in the city, or between divorced women who were living in the shelter and those who were living with their families. Another example refers to differences I noticed later, such as the fact that even the women who lived with their families were not always unconditionally supported by their families. I later added more cases focusing on this criterion.

I conducted more than 18 eighteen interviews, but I decided to choose interviews with divorced women from different backgrounds. The divorced women's ages ranged between 21 and 45 years old; most of them had not finished their high school education, some of them were continuing their education, and 8 eight out of the 18 eighteen were working at various jobs - some of them were employed as teachers and clerks and some others were working in salons (hairdresser) or working in cleaning jobs or other roles. I interviewed 6 divorced women in the shelter (Awen, Sandra, Mariam, Nasreen, Lara and Dlnia). 6 women in the evening schools (Shanaz, Nask, Maha, Bayan, Daliya, Kani); I met 2 in the NGOs (Nazaneen and Bana); and 4 others at the family meeting center (Sewa, Sakar, Lana and Hana). This means that I met 6

women who were not living with their families and 11 who were living with their families. 12 of the women had children and 6 of them had no children. Some of the women stayed with their husbands 3 three months before getting divorced, some of them 9 nine years. Four of the divorced women referred to themselves as women whose families belonged to a tribe or as having tribal backgrounds, where most of the family decisions are made by only the males in the families, and so frequently brothers, fathers, uncles and other male relatives were interfering in the women's lives. I would also like to mention that the research samples were collected in separate phases, as explained in the next section.<sup>531</sup> For more about the research sample see Appendix no. (2&3).

#### **5.4.1.9 First Phase of Data Collection**

This section of the dissertation presents the main research activities and procedures I undertook in Iraqi Kurdistan during my first research visit from 28 December 2014 to 19 March 2015. I intended to follow the plan I prepared before starting the fieldwork; however, some changes took place as I tried to adjust myself to the research settings and the environments of the respondents interviewed. Before presenting the research activities, I viewed some of the political and economic situation.

The main objective of this field visit was to try to find answers to the research questions through collecting rich data using the method of individual intensive narrative interviews, with cases selected by the purposive sampling technique. Moreover, I conducted expert interviews with government officials, women's rights advocates and institutions supporting women's rights.

To prepare for the fieldwork, I read through the literature on conducting Grounded Theory research presented by many scholars, but I ended up focusing on the work by Charmaz.<sup>532</sup>

Besides the interviews I conducted, I was also involved in many informal conversations and discussions to which I will also refer when analyzing the data.

Many participants did not agree to record the interview. I took a digital recorder with me, although I could not record the expert interviews (inside the shelter) or the

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<sup>531</sup>For more about the respondents in this research please see the appendix no.(2)&(3).

<sup>532</sup>Charmaz, Kathy (2006): *Constructing grounded theory: A practical guide through qualitative analysis*, UK: Sage.

interviews with the shelter occupants because I was not allowed to do so. I therefore had to write everything down, which made the interviews longer because I tried to write all the details. Due to the sensitivity of the research topic and the security situation, most respondents did not allow me to use their real names. Therefore, to respect the anonymity of the research participants, I changed their real names, and replaced them in my reports with other Kurdish names, and kept the list of original names private.

Moreover, I did not include other Kurdish cities than Sulaimani because of the instability of the political situation during my field work. I also thought that adding more cities would enlarge the scope of the research, since the populations of Kurdish cities are not homogeneous; the inhabitants come from different backgrounds, tribes, and religious sects.

The Kurdish language was used in all interviews to make it easy for the respondents to be able to talk freely; however, I translated and transcribed the interviews into English. The next step after I came back from the first phase of fieldwork was to translate, transcribe and complete the initial coding using the MAXQUDA program for the initial coding process. However, I was organizing and checking the interviews day by day and was also doing manual coding for every interview on a daily basis during the field work to explore whether I needed to integrate more cases, as will be described next.

#### **5.4.1.10 Second Phase of Data Collection**

Analyzing the interviews from the first phase of the data collection revealed the need to conduct the second phase. The research required concentrating and collecting more data about the divorced women and what they did after their divorce, such as taking up employment or going back to school. The women's life stories revealed that they were suffering as divorced women, but were also using different strategies to move on with their lives, which was one of the issues that I focused on during the second phase. Also, there were gaps regarding the role of the family in the women's lives before and after their divorce and during their marital life. Thus, issues that were not sufficiently detailed or clear in the first phase were among the subjects that I concentrated on in this phase. I conducted the second phase of data collection from October 2015 to February 2016. It should be mentioned that the second phase was a

difficult phase in the data collection due to the unstable political situation in Iraqi Kurdistan. The schools planned to start in September 2015, but the teachers and clerks in most Iraqi Kurdistan governmental institutions began a region-wide strike on 15 September 2015 against the Kurdistan Regional Government because the KRG had revealed a new plan aimed at reducing salaries. The government was not able to pay salaries for a period of more than 3 months in July, August and September of that year. According to the new plan, employees in the government were to receive only 25% of their salaries. The KRG promised to pay this amount every month at a specific time without delay starting in October. The KRG attributed this change to the reduced oil prices at that time. When I arrived, I found that the plan was widely rejected and that employees were starting to demonstrate against it. Strikes were taking place all over Sulaimani city, affecting the data collection due to the insecurity and expected violence. I decided to continue even though it was very challenging. I had to contact and visit some locations many times before I received an answer and permission to conduct interviews; I therefore continued my interviews with old cases to fill in gaps in the information and gain more insight into those specific cases. In spite of the difficulties, however, I was ultimately able to conduct new interviews as well.

When the situation did not improve, I contacted NGOs like the Jiyan Foundation for Human Rights and WOLA, the women's law organization. These organizations were set up to receive and provide legal and social support to women requesting divorce or who are divorced.

#### **5.4.1.11 Third Phase of Data Collection**

I conducted the third phase from September 2016 to October 5<sup>th</sup> of that year. During this period, I relied on my network that I had established with the NGOs to interview three divorced women, one at the Jiyan Foundation in Sulaimani, and two at the family meeting center in Sulaimani. Analyzing the first and second phases presented many facts regarding women's lives, but there were still some gaps in the data regarding women's lives after divorce and their rights pertaining to divorce. For instance, I needed details about Mare/Mahr and children's rights, for which I also interviewed a religious man Melle/ Mullah as an expert in Islam religion and issues relating to women's rights in Islam.



I decided to do the third phase in October because the schools in Iraqi Kurdistan start every year in September. Watching the situation, I hoped that it would stabilize and that everything would return to its normal state, but unfortunately the situation became worse and the schools did not open; offices and institutions were also closed and life seemed to have completely stopped. However, the NGOs were fortunately still working and continued to play great roles in supporting women economically by offering food and clothing to women who were living in the shelter, as well as other women who requested support during this period.

#### **5.4.2 Data Collection Methods and Questions**

The participant observation, interviews, texts, and artifacts are proposed methods used in the CGT for collecting data.<sup>533</sup> The research problem as Kathy Charmaz explains: “shapes the methods you choose.”<sup>534</sup> She also adds that, in the field researchers envision the data they are hoping to collect and then create ways to go about obtaining that data through, e.g. framing questions in such a way as to allow the interviewee to make a discovery through their own response.<sup>535</sup>

In this research, different methods of data collection were used to gather varied types of data. The in-depth narrative interview (telling life stories) method was used to obtain detailed information about the main cases of the divorced women. Problem-centered expert interviews were additionally used to gather information from experts about law, gender, women’s rights and other theoretical issues in order to fill in the gaps in information about Iraqi Kurdistan.

Next, each type of interview and the questions used are going to be presented, keeping in mind that the in-depth narrative interviews are more directed by general subjects than pre-set questions.<sup>536</sup> Charmaz and Belgrave state also that the questions of the interview must express the topics of the research and, at the same time, the participant’s experience. Thus, CGT interview questions should be wide-ranging to cover more experiences and draw out participants’ information. I follow the framework of questions that Charmaz suggests based on the constructivist grounded

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<sup>533</sup>Charmaz, Kathy (2006): Constructing grounded theory.

<sup>534</sup>Charmaz, Kathy (2006): Constructing grounded theory, p.15.

<sup>535</sup>Charmaz, Kathy (2006): Constructing grounded theory, p.15.

<sup>536</sup>Travers, Max ((2009): Qualitative interviewing methods. In: Social research methods, edited by Maggie Walter. Oxford: Australia and New Zealand, p.288.

theorists and the Rosenthal model of conducting narrative interviews through life stories.<sup>537</sup>

#### **5.4.2.1 Individual Intensive Narrative Interviews (Life Stories)**

These interviews are the backbone of the research, since they provide a rich source of in-depth information about each divorcée's case. This interview model is found in the work of Rosenthal<sup>538</sup> and Wengraf.<sup>539</sup> Rosenthal considers the use of narrative biographical interviews and life stories to be essential when information about realities and not texts are needed.<sup>540</sup>

I set the first question to be very open, and the period of narration is then determined by the respondents themselves. However, because they might have experienced violence in their lives, I make sure to add in questions about violence if they do not mention it or start their narrations at a point of time after the violence may have occurred.

Further, according to Rosenthal, questions in such interviews address either specific phases of life, single themes, specific situations, narrations to clarify arguments that have been made before, or non-self-experienced events or phases or transmitted knowledge.<sup>541</sup> I thus start with a general open-ended question in the first narration

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<sup>537</sup>Charmaz, Kathy & Linda Liska Belgrave (2012): Qualitative interviewing and grounded theory analysis. In: The sage handbook of interview research: the complexity of the craft. London: SAGE, pp.350-352.

<sup>538</sup>Rosenthal, Gabriele (1993): Reconstruction of life stories: principles of selection in generating stories for narrative biographical interviews. In: The narrative study of lives 1 (1), pp. 59-91.

<http://nbn-resolving.de/urn:nbn:de:0168-ssoar-59294>; Rosenthal, Gabriele (2004): Biographical research. In: Seale, Clive (Ed.); Gobo, Giampietro (Ed.); Gubrium, Jaber F. (Ed.); Silverman, David (Ed.): Qualitative research practice. London: Sage, pp. 48-64.

<http://nbn-resolving.de/urn:nbn:de:0168-ssoar-56725> .

<sup>539</sup>Wengraf, Tom (2001): Qualitative research interviewing: biographic narrative and semi-structured method. London: Sage.

<sup>540</sup>Rosenthal, Gabriele (1993): Reconstruction of life stories, p. 1.

<http://nbn-resolving.de/urn:nbn:de:0168-ssoar-59294> .

<sup>541</sup>Rosenthal, Gabriele (2004): Biographical research. In: Seale, Clive (Ed.); Gobo, Giampietro (Ed.); Gubrium, Jaber F. (Ed.); Silverman, David (Ed.): Qualitative research practice. London: Sage, pp. 48-64, p.52. <http://nbn-resolving.de/urn:nbn:de:0168-ssoar-56725> .

phase of the interview and in the second phase I focus on the specific issues related to my research in the case that they are not mentioned by the respondents spontaneously. The sections below present the questions which were asked in the interviews. All of them are open-ended questions designed to stimulate the interviewee to talk freely. This method has proved to be a useful and important tool in GT.<sup>542</sup>

### **Initial narration phase: Life story**

As I mentioned earlier in this chapter, I start by introducing myself and the research topic as “studying the situation of women in Iraqi Kurdistan,” and then ask for the narration: “Please tell me about your life story. I am interested in your whole life, anything that occurs to you; you have as much time as you like. I will listen and make notes and I am not going to interrupt you.”<sup>543</sup>

### **Focused narration phase: Specific questions**

Only the topics which were not mentioned in the initial narration phase were asked specifically, but also in open-ended form. Thus, I did not ask these questions if they were already mentioned in the initial narration phase.

- Can you tell me more about your life as a divorced woman?
- How do you cope with all these challenges?
- Tell me about the difficulties inside the house and outside in the workplace, for example.
  - I heard that a woman went to the police after she was beaten, what do you think about that? Do you think the police will support her? Do you know about the laws protecting women from violence?
  - Do you think the existence of the law is enough to protect women?
  - I heard that there are more laws now to protect women in Iraqi Kurdistan, what do you know about that?
  - How do you describe social security in your life as a woman?
  - Could you tell me more about the changes in Iraqi Kurdistan, and how they affect the daily lives of women?

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<sup>542</sup>Witzel, Andreas (2000): The problem-centered interview, in: *Qualitative Sozialforschung Forum* 1(1). <http://qualitative-research.net/fqs>.

<sup>543</sup>Rosenthal, Gabriele (2004): *Biographical research*, p. 51.

- Questions to women in the shelter:
- General questions about their lives in the shelter, such as whether they go out, and who is protecting them.

#### **Ending questions**

- Is there something else you would like to add? Is there anything you would like to ask me?

#### **5.4.2.2 Problem-Centered Interviews**

In this research, problem-centered interviews were conducted with officers and different organizations, governmental organizations and NGOs, women in parliament, officials advocating for women's rights, officers in women's shelters, and other institutions. In sum, my interviewees were experts in women's issues. The expert interviews were intended to fill the gaps in the literature as well as gaps in the individual interviews, when something required further clarification. The expert interviews were also supposed to provide a deeper understanding of the laws concerning women that are in effect now in Iraqi Kurdistan, how these laws are issued, amended, and executed, and what factors affect the rule of law in Iraqi Kurdistan.

An expert can be defined as a “person who has a high degree of skill and knowledge in a certain domain, field or industry due to long-time experience and has status, power-to-act and decision-making opportunities based on these skills and knowledge.”<sup>544</sup>

Problem-centered expert interviews were designed in this research to understand specific aspects related to women in Iraqi Kurdistan, specifically divorced women. This method was selected in this research for its strong relation to the grounded theory method. Thus, the PCI is borrowed from the grounded theory of Glaser & Strauss, 1998, the theory building process.<sup>545</sup> This method “produces[s] a dialogue between the researcher's conceptual and theoretical interest in a certain issue and the

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<sup>544</sup>Belting, Julia (2008): Empirical methods: Expert interviews, ETH, Swiss Federal Institute for Technology Zurich.  
[http://www.oat.ethz.ch/education/Autumn\\_term\\_08/Material\\_on\\_Empirical\\_Methods/Questionnaire.pdf](http://www.oat.ethz.ch/education/Autumn_term_08/Material_on_Empirical_Methods/Questionnaire.pdf)

<sup>545</sup>Witzel, Andreas (2000): The problem-centered interview. Forum Qualitative Sozialforschung / Forum: Qualitative Social Research, 1(1), Art.22, <http://nbn-resolving.de/urn:nbn:de:0114-fqs0001228>.

knowledge of experts in the field.”<sup>546</sup> In the problem-centered interview, the researcher begins by using his or her prior knowledge in combination with the respondent’s practical knowledge to construct or reconstruct the problem together in an interactive and interpretive process of data collection.<sup>547</sup> I affirm that I have knowledge about the situation of women in the KRG and about the amendments to the laws concerning women's rights. Also, there is no intensive and empirical literature about women, especially divorced women in Kurdistan; therefore I conducted these interviews to fill in the gaps in the current knowledge. I found that this method as the best method to be used in gathering data regarding the laws and the situation of divorced women in Iraqi Kurdistan.

### **Questions to women in the Parliament and officials in institutions**

The initial questions to the women in the Parliament discussed the new laws regarding women's rights and their plans to improve the situation of women in the KRG. The initial questions to the persons or experts working in institutions and offices were about the institutions they work in, and the objectives, roles, activities and results of their activities.

### **Specific questions**

- What are the recent developments in the field of women’s rights and laws concerning women in Iraqi Kurdistan?
- What are the steps in the process of issuing, amending, and executing laws concerning women?
- Are there any laws addressing un-remarried divorced women in Kurdistan? What are they? What do you think about these laws?
- How successful have your efforts been in changing the situation of women?
- What are the main barriers to your efforts to support women?
- What are your efforts to raise awareness concerning laws?
- Are you communicating/networking with NGOs and other organizations working to support women’ rights and laws?

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<sup>546</sup>Witzel, Andreas (2000): The problem-centered interview. P.18

<sup>547</sup>Witzel, Andreas (2000): The problem-centered interview. P.18

- Do you agree with international agreements like CEDAW? Do you perceive them as applicable to the situation of Iraqi Kurdistan?
- With the existence of the formal laws, why is there still violence against women in Iraqi Kurdistan?
- What are the factors hindering the rule of law?
- What should be done to improve the situation?
- Which other institutions are providing support to divorced women in Iraqi Kurdistan? Local, national, international?
- How are the laws concerning women supporting them in their daily lives?
- How do political changes affect women and gender relations in the family?
- What do you think about the amendments of laws in Iraqi Kurdistan? Do you think they are in favor of women?
- Do you agree that the women's situation in Iraqi Kurdistan is better than in central Iraq?
- Recently, I heard that a woman escaped from her home and went to one of the women's shelters. This shelter is only for women facing and living with violence; could you tell me more about the situation of women, particularly divorced women, in Iraqi Kurdistan who live in shelters? Are they more protected than with their families? Who finances these shelters?
- Which plays a more important role: religion or the tribe?

### **Ending questions**

- Is there something else you would like to add? Is there anything you would like to ask me?

### **Questions to the social researchers**

The initial questions and discussions were about the institutions the social researchers work in, and the objectives, roles, activities and results of their activities.

- Could you tell me about the difficulties that women face and how they cope?
- Could you explain to me how you describe social security in the life of these women?
- Could you explain more about the laws concerning women, particularly un-remarried divorced women in Kurdistan, and do you think they support women?

- Could you describe for me how NGOs and other organizations are working to support women's rights and laws?
- Could you tell me more about what factors are hindering the rule of law?
- Could you tell me about the limits on (divorced) women's behavior in the family?
- Could you describe for me whether these limits provide women with security?
- Could you tell me how un-remarried divorced women can live with social security (how should we support them)?
- What plays a more important role: religion or the tribe?

### **Ending questions**

- Is there something else you would like to add? Is there anything you would like to ask me?

### **5.4.2.3 Observations**

I recognized the importance of observing the actions and feelings of divorced women when I was conducting interviews in the center for family meetings. In the center, divorced parents met with their children under the supervision of the social workers. Observing how mothers and fathers acted during these meetings enabled me to understand the suffering of the divorced parents, but mostly how distressed the divorced women were, whose children lived with their father. The center was not built for such activities but had only designated a part of it as a meeting area. Therefore, it was too small for the large number of families present and they were not allowed to take the children out. There were two big rooms, one of them for mothers to sit in and one for fathers to sit in, and the children were meeting their parents in the hallway. Sometimes, I saw the divorced women fighting with their ex-husband about the children, or the ex-husband would start to insult his ex-wife who was there, and the social worker would try to solve the problem or call the police. I was sitting there observing the situations and talking to the social workers about divorced women; this helped me to identify the difficulties that women faced as divorcées and supported me to select some divorced women for the interviews. For example, I met Hana, an educated, working woman, and Sewa, who had 4 children. To see how such institutions were supporting the women, I also observed many educated divorced

women coming to the family meeting center, which influenced me in selecting many educated divorced women for the interviews.

After I was finished at the meeting center, I took many notes about these distressed women and I changed some questions for the next interviews accordingly. For instance, I decided to ask more about the women's relationship with their ex-husbands after the divorce if it was not mentioned by the respondents themselves.

I also learned about observation as a research method before I visited the shelter and during the period in which I conducted the interviews there. This was because I knew about the many restrictions on conducting interviews in the shelter.

Thus, in the shelter when I was talking with the shelter managers and the social researchers, I used observation systematically. This supported me to collect significant information about the approximate number of women living in the shelter and the number of rooms, among other things. Observation, for example, supported me one day in the shelter as I came inside and observed that there was something different going on. I asked about that and the manager informed me that there was a supervision committee coming from the Office of Labor and Social Affairs. I observed that the shelter was very clean and organized, and the women themselves supported in the organization of the day. Such information I got only through observation. I also gained insights into the relationship between the workers in the shelter and the residents only through observation. Through observation, I could also find out how women are spending their everyday lives in the shelter, or the restrictions of the building and the security methods that were used. From the observational notes, I was able to describe the actual building of the shelter and the places where women received protection, and I understood what was meant when the women were describing their life in the shelter to me. I learned to infer and extract the intended meaning from the things they said and also enlarged the scope of my knowledge about the divorced women's lives.



## 5.4.3 Procedures for Conducting Interviews

### 5.4.3.1 Before Interviewing

Erving Goffman gave advice to researchers on their role in conducting interviews:

“[Subject] yourself... and your own social situation to the set of contingencies that play upon a set of individuals, so that you can physically and ecologically penetrate their circle of response to their social situation, their work situation, or their ethnic situation.”<sup>548</sup>

The role of interviewer is always discussed in the literature on CGT and emphasized because of its importance. Accordingly, I thought about all the steps, measures and procedures that I followed before conducting the interviews, as well as during and after the interviews. Introducing oneself as the interviewer also seems important, which is why I decided to introduce myself as a student writing a scientific research thesis and working at the University of Sulaimani. The intention was to make me more accepted by respondents, especially when they learned that the information provided was going to be used only by me and for academic research purposes. I did not connect myself to any other institution or political party, other than the University of Sulaimani, which is considered a neutral academic institution.

I prepared my guidelines (only for me) as a checklist of issues I wanted to discuss. I used them in the initial interviews until I felt comfortable asking the questions spontaneously, because interviewing without looking at the paper for each question was preferable. Andreas Witzel describes such guidelines for the researcher as, “a supportive device to reinforce the interviewer's memory on the topics of research and provide a framework of orientation to ensure comparability of interviews.”<sup>549</sup> In the initial phase of the narrative interviews, no guideline was used, rather only one open question as stated above.

I started with explaining the purpose of the interview and how the interview was going to be conducted (interview format) and that there were no time limits. I left my contact information with them at the end and told them that I might need more information later on (if allowed) and I took their contact information as well.

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<sup>548</sup>Johnson, John M. & Timothy Rowlands (2012): The interpersonal dynamics of in-depth interviews. In: The Sage handbook, interview research: the complexity of the craft. USA: SAGE, p.101.

<sup>549</sup>Witzel, Andreas (2000): The problem-centered interview.

I asked them for permission to record the interviews and talked about the confidentiality of the information collected. Some of the respondents refused to use the recorder; I asked them at the beginning and explained why I needed to use a recorder, but if they did not agree then I wrote down the interview instead.

### **5.4.3.2 During the Interview**

Active listening is viewed as a significant method in the literature on conducting interviews. During the interview, I tried to use different methods to let the interviewee talk more about the subject, for example to encourage the participant to keep talking and participate actively in the interview process. I used specific phrases like “that is interesting, tell me more about it” and “so you were really happy (or sad)...” instead of just sounding an “uh huh” or only nodding.<sup>550</sup> I told some of them about previous similar experiences or stories or situations I had encountered, using such phrases as “some people have mentioned and/or had experience with \_\_\_\_\_. Have you experienced something like that?”<sup>551</sup>

The questions were not only open-ended, but also following the approach described by Andreas Witzel, who suggests that a question be “so broadly formulated that it functions like an empty page which is filled out by the interviewee in his or her own words, structured in his or her own way.”<sup>552</sup> This style has also been found to take the interviewee out of the question-and-answer mode and instead deliver a more free-form narration.

In addition to that, enhancing the discussions during the interview and showing understanding of what was said has been found to build a trust relationship between the interviewee and the interviewer. Andreas Witzel states that if the interviewing process is problem-centered and enhanced with discussion that allows for pre-interpretation, the interviewee is found to be more open and they get the feeling that they are being taken seriously and that what they say is important. In the words of Witzel, “This trust relationship promotes the respondent's capability to remember and motivates self-reflection.”<sup>553</sup> Moreover, encouraging a conversational flow during the

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<sup>550</sup>Charmaz, Kathy (2006): Constructing grounded theory, p.26.

<sup>551</sup>Charmaz, Kathy (2006): Constructing grounded theory, p.16.

<sup>552</sup>Witzel, Andreas(2000): The problem-centered interview

<sup>553</sup>Witzel, Andreas(2000): The problem-centered interview

interview is supposed to let the interviewer deal directly with and understand redundancies and contradictions.

Active listening strategies include the following given by Guion et al.: First, attend fully to what the respondents are saying and focus on what they say. The interviewer should give the respondents full attention until the respondents have finished speaking. Second, the interviewer should paraphrase or mirror what the respondent says to confirm to him or her that the interviewer really cares, listens and understands. Paraphrasing also has the added benefit of forcing a speaker to focus wholly on the conversation, thus limiting distractions. Third, reflect back to the speaker the emotions inherent in the message. By paying attention to tone and emotional content, the interviewer can gain a greater understanding of the messages being delivered.<sup>554</sup> Charmaz stresses, “Intonation, slow pacing, repeats key points and gently turns the interviewees to open-ended questions.”<sup>555</sup>

In the literature on narrative interviews, active listening is often discussed, mainly the things that should be avoided or the possible disturbances to the flow of information in the interview. Wengraf explains that a few things must be avoided: giving consolation or advice, making interpretations, and adding in one’s own thoughts or biographical details.<sup>556</sup>

It also known that the researcher is supposed to listen but avoid arguing, discussing with or judging the interviewees in order to facilitate the interview process. I committed myself to remaining neutral and supportive, even when I had an opposite opinion or if they said something shocking. I did not show that I was influenced by what they said or that I was suspicious about what they told me. I made every attempt to simply encourage the interviewee to talk more.

The researcher should ask questions that enable the interviewee to tell his or her story, while considering the topics of the research. Charmaz and Belgrave pointed out that “Grounded theorists need to balance hearing the participant’s story in its fullness with

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<sup>554</sup>Lisa A. Guion, David C. Diehl & Debra McDonald (2011): *Conducting an In-depth Interview*, Institute of Food and Agricultural Sciences, University of Florida. p.2. <http://edis.ifas.ufl.edu/fy393>; Given, Lisa M (2008): *The Sage encyclopedia of qualitative research methods* (1-2). USA, p.7.

<sup>555</sup>Charmaz, Kathy & Linda Liska Belgrave (2012): *Qualitative interviewing and grounded theory analysis*. In: *The sage handbook of interview research: the complexity of the craft*. London: SAGE, pp.351, 352.

<sup>556</sup>Wengraf, Tom (2001): *Qualitative research interviewing*, p.129.

probing for the analytic properties and implications of major processes, particularly if they combine narrative methods and grounded theory strategies.”<sup>557</sup> When I did not understand what the respondent said, I asked them for more details, or I asked the question in another way or rephrased what he or she had said.

Not only listening is important, but also observing with sensitivity and trying to become familiar and deal with any changes in the interview’s environment.

During the interviews, however, I did try to avoid repeating questions or asking misleading questions. Moreover, when I was conducting long interviews, I chose a comfortable and quiet place. I asked all the questions even if I already knew the answer for some questions. When I asked specific questions, I focused on the answers provided in order to understand and ask further questions from the answers, such as why, where, how, for how long, when and, most importantly, “what does that mean?”

### **5.4.3.3 After the Interviews**

Completion of the interview should be done with care, smoothly and in a friendly atmosphere and I tried to build a long and trusted interviewer-respondent relationship. The last question was whether they needed to ask a question or add anything they thought might be interesting to me. I evaluated the interviews I did every day, asking how it went and specifying what I was going to change or add in the next interview. I also started to manually analyze interviews on a daily basis to be acquainted with any gaps that might need clarification from the same respondent again.

Immediately after each interview, I needed to write down my observations made during the interview and the interview transcript. These are called, by Andreas Witzel, postscripts, which are written straight after the interview to finalize the tape recording and they contain the main topics discussed as well as comments on the interview situation, emotions and nonverbal aspects. For example, I noted what main topics were discussed, where and when the interview took place, and whether the respondent was particularly nervous at any time during the interview. I also made special notes as to whether there were any surprises during the interview.

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<sup>557</sup>Charmaz, Kathy & Linda LiskaBelgrave (2012): Qualitative interviewing and grounded theory analysis. In: The sage handbook of interview research: the complexity of the craft. London: SAGE, p.350.

I started writing memos in the field. Memos are considered very important in CGT, and researchers should start writing memos at the beginning of the data collection. In these memos, the researcher starts to question the data and write down the analytical ideas about codes and the relations between codes.<sup>558</sup>

#### **5.4.4 Sampling Techniques**

The initial sampling technique was the snowball sampling; however, the main cases selected had to be emphasized and information provided to construct the theory about unmarried divorced women in Iraqi Kurdistan. Thus, adding new cases or re-interviewing previous cases was conducted on the basis of theoretical sampling until the saturation point was met. In this research, I used theoretical sampling to develop some of the categories. As Charmaz explains, "initial sampling in grounded theory gets you started: theoretical sampling guides where you go."<sup>559</sup> Theoretical sampling is one of the important steps that researchers follow in grounded theory. It can be used to develop some of the theoretical categories or fill in a specific gap on a topic or concept.<sup>560</sup> To make it more clearly, I will give an example of the theoretical sampling in my work. In the first phase of the field work and after analyzing the data I realized that the divorced women were describing their lives after divorce as very difficult and were facing different challenges. I went back to some of the respondents whom I had interviewed and tried to pose more focused questions regarding the difficulties the divorced women faced in daily life. I also asked about the women's strategies for dealing with such difficulties. This step was very important for my work, as it helped me to realize that in spite of the difficulties the women were facing, they were able to attain positive achievements and did not remain passive, but employed different strategies to continue their lives in society.

The saturation point is thought to be an attempt to verify the qualitative research (mainly GT) through the process of category saturation, which means staying in the field until no further evidence emerges. However, according to Strauss and Corbin,<sup>561</sup> the saturation point may be impossible to reach with the emergence of new

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<sup>558</sup>Charmaz, Kathy (2006): Constructing grounded theory.

<sup>559</sup>Kathy Charmaz (2014): Constructing grounded theory, p. 197.

<sup>560</sup>Kathy Charmaz (2014): Constructing grounded theory, p. 202.

<sup>561</sup>Strauss, Anselm & Corbin, Juliet (1998): p.136.

information throughout the research process, although saturation of codes and categories could still be possible. In the case of PhD research, the saturation point might be determined by the time of the research, how often the researcher conducts the field work, the nature of the research, and funding possibilities.<sup>562</sup>

## **5.4.5 Analyzing the Interviews**

### **5.4.5.1 Data Analysis: Using the MAXQDA Program**

I started the process of data analysis in the early stages of the research, at the beginning of the process of collecting interviews. When I collected the data from my first three interviews, I started to do manual coding to find the gaps and what I needed to change or what was important to focus on in subsequent interviews. For example, I changed the introduction of my PhD thesis where I initially described my research as focusing on women's lives in Iraqi Kurdistan in general. In the interviews, however, I observed the women talking generally about their challenges in the public sphere, so I changed the research subject and the questions to make them more focused and meaningful. I changed the topic of my research to studying just the situation of women in the KRG, at which point I was asking women to tell me their life stories. This step allowed for a significant development in my work. I then started to focus on the unmarried, divorced women and their relationships with their family members after analyzing the first three interviews. I did this because I observed the women talking about their relationships with their fathers and mothers, which prompted me to deepen the focus on the women's everyday lives and to understand it more clearly.

These changes occurred during my fieldwork, but also when I started the process of coding after returning from the field, I analyzed three women's cases who were living in the shelter and I wrote a small report about every one of these three women. I wrote about how they discussed their daily lives, how they came to the shelter, and how their relationships were with their family members.

Because I conducted all the interviews in the Kurdish language, I had to translate all of them into English in order to use them in the MAQDA computer program, which does not recognize the Kurdish language. I completed the translation and transcription

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<sup>562</sup>Mason, Mark (2010): Sample size and saturation in PhD studies using qualitative interviews, in: Forum: Qualitative social Research 11(3).

<http://www.qualitative-research.net/index.php/fqs/article/view/1428/3027>.

for every interview at the same time. The translation of the interviews was the most difficult part of the data collection and analysis, due to the substantial differences between the two languages. For some words I could not find equivalents in English, and I had to approximate the meaning with the closest options, for instance jin-ba-jin ('woman for a woman'), xafat ('feeling sad'), and beawa-jin ('divorced woman'). Respondents also used many proverbs familiar in the Kurdish language, for which I also had to approximate the closest meaning when I translated them into English, for instance Dayek bebena u dwyata bxwaza ('See how the mother is and then ask to marry the daughter').

Despite the fact that the translation and transcription took longer than expected, I was also reading and re-reading the interviews; this helped me to look deeper into them. After I translated and transcribed every interview, I entered them into the MAXQDA program. This program makes it easy to do the initial coding and have a list of codes. In this list I could observe the most frequently repeated codes that allowed me to focus more easily on the coding and started the initial coding procedures following Kathy Charmaz's steps of initial coding in grounded theory.

## **5.4.5.2 Coding Procedures**

### **5.4.5.2.1 Initial Coding**

The first step in the process of data analysis in the grounded theory is the initial coding that, according to Charmaz,<sup>563</sup> is the process of data interpretation. It is the reaction of the researcher to the empirical data that the researcher collected in the fieldwork. Codes produced during this phase need to be close to the data and mirror the actions stated by the respondents; the researcher should avoid descriptions of the data. The initial coding is described by Charmaz as identifying the actions that take place in the narrations.<sup>564</sup> To do the initial coding, the researcher needs to be open to what comes from the interviews and remain open during the coding. Some researchers or students try to apply some theoretical concepts to their data during the initial coding to legitimate their work, Doing this, however, will affect the ideas coming from the data and prevent new ideas that were initiated in the data from coming out.<sup>565</sup>

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<sup>563</sup>Kathy Charmaz (2014): Constructing grounded theory, p.24.

<sup>564</sup>See the appendix no(4) table no.(2).

<sup>565</sup>Kathy Charmaz (2014): Constructing grounded theory, P.18.

The initial coding is really needed to “make efforts to learn and examine how your past influences the way you see the world and your data.”<sup>566</sup> But, it also requires the researcher to be open to the analytical codes that come from the data and fit it.

The MAXQDA program made the process of initial coding easier because it has systematic and organized steps that offer the researcher the possibility to build a list of codes that can be easily compared to each other between the interviews. It also offers the possibility of having a list of favorites codes or the most often used codes; this supports the researcher and saves him or her time during the process of coding.

I used line-by-line coding, or sometimes paragraph-by-paragraph, depending on the events discussed in the interviews, and the story line and connectivity of events narrated by the respondents.<sup>567</sup> The codes were related to quotations cited under each code so that by means of the MAQDA program I could review them and return many times to the codes and quotations related to them. This allowed for constant comparison between codes and quotations and repeated codes for similar quotations. This was in order to refine the codes to bring them closer to the quotations. It is noteworthy that, during the initial coding, I used the constant comparison of data. This enabled a comparison between respondents and their stories. I was constantly comparing also between codes, and between codes with quotations, which allowed me to go deep into the data. The process of initial coding helped build the codes that fit or were grounded in the data.<sup>568</sup> See examples on initial codes in Appendix (4); Table no.(2) Example of the initial coding

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<sup>566</sup>Kathy Charmaz (2014): Constructing grounded theory P.18.

<sup>567</sup>Kathy Charmaz (2006), p.48.

<sup>568</sup>Glaser & Strauss: 1967. p.23; Stephen D. Lapen: qualitative research. p.46.



### 5.4.5.2.2 Focused Coding

The second step of coding as described by Charmaz is the procedure of choosing more frequently repeated codes or more significant and important codes from among the initial codes. It means using certain initial codes that have more theoretical reach.<sup>569</sup>

As Charmaz stated, in this step of the data analysis the research needs to make decisions about the data, and which codes are considered important to focus on. The researcher should interact with and react to the data, rather than going through them, and he or she has to make decisions rapidly.

For my research, the processes of initial coding and focused coding were extremely long processes, since I coded and recoded my data and then I read and compared the initial coding many times in order to go deep into the data and provide analytically focused codes and avoid thematic coding.

In the focused coding, for instance, I grouped the initial codes "Do not want to get divorced," "The word divorced is very hard," "Divorced women should act divorced," "Divorced women are not virgins," and "Being divorced compared to being married," together into a focused code category of "Being divorced is very challenging."

To reflect on how I did the focused coding process, I will give an example. When I was trying to find a focused code that was grounded in the data, I took a code and sometimes groups of repeated codes or another group of codes and followed Charmaz's advice, asking myself, "What larger story do these codes tell me?". What are they saying? What do I think they are saying? Grounded theory works with fragmented data, fragmented stories.<sup>570</sup>

Consequently, I was reading the notes that I wrote during the fieldwork and I wrote some other notes during the coding process, which allowed me to group the codes into categories, as well as filling gaps. Some of my notes assisted me in building analytical codes and categories about, for instance, marriage ceremonies and women's rights. I wrote notes about how women talk about their marriage and dowry. This filled the

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<sup>569</sup>Charmaz, Kathy (2014): Constructing grounded theory. Sag publication .2<sup>nd</sup> Edition. London, p.140, 141.

<sup>570</sup>Charmaz, Kathy (2006): pp.55-59.

gaps that I had about women's rights after getting divorced and the role of the law in this. See examples of focused codes in appendix no (5) Table no(3).

In this research, I have not used axial coding. Charmaz stated that researchers “who prefer simple, flexible guidelines - and can tolerate ambiguity - do not need to do axial coding. Instead, they can follow the leads that they define in their empirical materials.”<sup>571</sup>

Thus, I followed and agree with Charmaz, who explained, “my approach differs from axial coding in that my analytic strategies are emergent, rather than procedural applications. The subsequent categories, subcategories, and links reflect how I made sense of the data.”<sup>572</sup>

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<sup>571</sup>Charmaz, Cathy (2014): Constructing grounded theory, p.148.

<sup>572</sup>Charmaz, Cathy (2014): Constructing grounded theory, p.148.

## Chapter Six

### Phases and Challenges in Divorced Women's Lives

#### 6.0 Introduction

This chapter and the following two chapters constitute the empirical part of this research. The results of data analysis are going to be presented.

The core focus of this chapter is the phases that divorced women passed through during their lives; these phases create the main categories. Subcategories and their dimensions are also constructed through the data that I collected from divorced respondents and analyzed using the coding process explained in Chapter 5.

I intended to start by outlining the importance of marriage and divorce in the lives of the women I interviewed, because they started narrating their stories from these two turning points<sup>573</sup> in their life. I organized this chapter to reveal respondents' points of view about the important phases in their own lives, starting from marriage. I positioned these narrations and produced the most important categories such as types of marriage, the questions regarding consenting to marriage and the rituals of what is called in the Kurdish society "acceptable marriage." The next part of the chapter is devoted to what was experienced by women from their husbands or the families of the husbands during the marriage and the divorce process. The final section presents the information revealed from the interviews concerning the main challenges faced by divorced women after divorce; these include both financial and social challenges, the latter involving such issues as the perception of divorced women in Kurdish society and the restrictions placed on them. I also look at what they were able to achieve, in the form of different positive accomplishments despite the challenges they faced. To conclude, I will also address the issue of child custody separately illustrated by

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<sup>573</sup>The concept of turning points has been defined differently by scholars. Daniela Reimer explains Anselm Strauss' (1959:95) definition of a turning point as a change in identity, while I agree with Rosenthal, who describes turning points as "culturally established transitions such as starting school, entering vocational training or university, starting work, getting married, becoming a parent, getting divorced, adult children moving out, etc. This kind of turning point is generally only seen as a crisis if it does not occur "on time": if it comes too early and is thus unexpected. " Quoted from: Reimer, Daniela (2014): Subjective and Objective Dimensions of Turning Points. In: Social Work and Society International Online Journal 12(1). <https://www.socwork.net/sws/article/view/385/726>

examples of respondents, some who lost and some who gained custody of their children following their divorce.

### **6.1 Phases in a Divorced Woman's Life: Girlhood, Marriage and Divorce as The Beginning of Life Story**

In the interviews with divorced women, I posed the initial question "Can you please tell me your life story? [...]" to all respondents, and each time they started from a different point in their lives. It is clear that each of the respondents started from a time or event that was crucial in her life as a woman, which she cannot forget. Some of them started from their school years when they were young girls, others started from their marriage and others from their divorce. Some respondents, like Nask, Nazaneen, Shanaz, and Awen, started their stories from the time when they were young girls and the time they spent in primary school; marriage or divorce then came later in the narration and were introduced in the story especially because some of the women left school to get married when they were still young girls. For those respondents, leaving school was viewed as an influential and sad event in their lives. For instance, Nazaneen and Lara wanted to continue going to school and remember their time at school as a very happy time until they were forced by their family to leave and could not thus continue their education. Even if they began their story with their status as a young girl, not long into the interview marriage came into the picture and was likewise viewed as a significant event in their lives. In fact, marriage and divorce were always the focal point of all the interviews, even with those who started from a different time in their lives: They explained later that marriage and divorce were decisive events in their life stories.

Many respondents, including Bayan, Daliya, Hana, Lana, Maha, Nasreen, and Sandra, began with the story of their marriage and how it came about. Daliya, for instance, started her story with how she got married. Her husband's mother and sister saw her at a hairdresser's salon and asked her if she would not mind marrying their son/brother. She viewed this moment as a very influential one in her life. The most important point in Daliya's story was that she saw her marriage as a significant transformation; she and most of the respondents considered marriage as a change in status from being a girl to being a married woman.

Interviewees including Mariam, Sakar, and Sewa began their life stories with the experience of their divorce and described it as a very crucial event, mainly because things changed dramatically after this point. Divorce was again taken as a status change, when these women went from being married to being divorced.

From the respondents' answers, I was able to identify many turning points in their lives, including the following: (being girl) girlhood, married life, divorce, and after /post-divorce. It was revealed from the interviews that respondents were socially classified in their communities according to their marital status, which seems very important in Kurdish society, as respondents repeatedly emphasized. The females are classified as either a girl (in Kurdish *kch*), a woman (*jin*), a divorcee (*beawa-jin/talaqdraw*), a widow (*beawa-jin*), or an old woman (*pir-jin/nank*). This classification is based on two important criteria. The first is age, where a girl and an old woman are the two extremes; the girl is supposed to be the youngest and the old woman the oldest. The second criterion is marital status, where a girl (*Kch*) is who not yet married; a woman (*jin*) can be married or divorced, or may be widows or May be old woman. This classification also has something to do with the position of each group within their families and society, as is clear from the linkages I drew from this classification, namely the fact that each group plays a specific role. More importantly, this classification of women is considered the foundation of their relationship with the men in their families and in the society as a whole, shaping all their relationships with the men in their environment. This classification was described by the respondents themselves and seen as a decisive distinction because, as they mentioned, they are always defined by their relationship to men.

### **6.1.1 Girlhood: Being Prepared to be Good Wives and Mothers**

“I grew up hearing from my mother and aunts that women sooner or later have to get married and build their families and be mothers, why the effort of going to school when I am definitely getting married at the end? This is how I was thinking at that time.” In-depth interview with Awen a divorced woman who got married when she was 16 years old.

Some of the respondents explained the same point of view, namely that girls need to be prepared to be good wives and mothers. Respondents mentioned that as soon as a girl gets her menstrual period, which is considered a sign of becoming an adult and

the beginning of the woman's ability to get pregnant, her virginity is to be preserved. Indeed, girlhood is thus linked to virginity as the respondents explained; girls are to be protected by their families so as not to lose their virginity or get pregnant before getting married. Zhean, a social worker supporting women in the shelter, explained that virginity is one of the most important issues in Kurdish society when girls are to be married. The consequences of whether or not a girl marries as a virgin will follow women throughout their lives. Girls who are not found to be virgins by their husbands are considered to be bad girls. Girls are supposed to maintain their virginity until they get married, and losing it before that time is very shameful for them and their families. Thus, virginity is viewed as a source of honor by the family and its loss before marriage is not acceptable, which puts girls who go through such an experience in danger. Losing virginity before getting married is one of the reasons for honor killing.

During girlhood, a girl is supposed to learn the skills that she needs to be a good wife and mother. Thus, her mother will start to engage her in the domestic work so that she may learn by doing. Even some respondents, such as Nazaneen, Lara and Sandra, dropped out of school to learn domestic chores.

Most of respondents also mentioned that in their girlhood they were taught to be shy. Being shy is linked to being a 'decent' woman. They were also told not to speak to strangers, mainly men, or have any contact with them. Moreover, at home they also learn that they have to listen and obey the male members of the family such as the father or older brothers.

### **6.1.2 Marriage**

During the process of analyzing the interviews, I identified different types of marriage as well as a distinction based on who made the decision to carry out the marriage: the women themselves or their families. Different forms of marriage emerged from the women's descriptions, including the types of marriage and the marriage ceremony, and how these events are related specifically to the category of divorce.

In this section, I shed light on the categories and subcategories of marriage mentioned by the respondents, including arranged, early, and forced marriages, and the exchange of one woman for another/ woman for a woman (jin ba jin). It is important to mention that a clear distinction between these types of marriage is not

possible, since there are many overlaps and intersections between these types. Another important factor is that most of the divorced women I interviewed got married through a family arrangement (arranged marriage). Moreover, the decision about a woman in the family to get married to a specific man has to be approved by the male members of her family, which is also an influential factor in determining the type of marriage that will take place.

### **6.1.2.1 Types of Marriage: Arranged, Early and Forced Marriages**

Most of the respondents' marriages were arranged by their families; they had to marry the man whom their families found was a good match for them. Respondents such as Daliya, Maha, Nasreen, Nask, Nazaneen, Sewa, Sandra, and Awen got married at an early age, mainly between 15 and 17 years old. Most marriages that fall into this category are arranged marriages as well. Nazaneen and Sewa said that girls at this age are viewed by the family, mainly the male members (peawakan) of the family, as very young and not able to decide whether or not a man is a good marriage prospect or will be a good husband for them. So, it falls to the male members to decide.

It is became clear from the interviews with the respondents that even if a woman refuses to marry the man proposed to her; that already agreed upon him by her family, the family can force her to marry him; this type of marriage is called a forced marriage. This was revealed in the stories of Lara, Nazaneen, and Nasreen. All the respondents who were forced to get married were very young. Lara is a divorced woman who was forced to get married at the age of 15 to a man chosen by her family. Lara said that she refused the marriage proposal, but she was forced by her family to agree to the marriage. Similar was the case of Nasreen, a divorced woman who married at 16. She said that she told her family several times that she did not want to marry the man they chose for her, but said that nobody listened to her. The man was 15 years older than her. Both respondents remembered being sad at the wedding ceremony; Nasreen mentioned that she could not stop thinking that she would not be able to go to school anymore. Both Lara and Nasreen explained that they had no idea what took place in a marriage, and that their only impression was that marriage meant taking care of a husband and children and obeying the husband.

### **6.1.2.2 A Woman for a Woman: Jin Ba Jin**

Respondents described another type of marriage as an exchange of one woman for another. When a man proposes to a woman, her family will want one of his female relatives as a bride for a male member of their own family. This is called jin ba jin in the Kurdish language, and means ‘woman in exchange for woman’ or ‘a woman for a woman’. This is also a type of traditional contract between two families; Lara explained in her interview that she was engaged when she was 8 years old. She told me that she was so young that the marriage was not practiced but that she was only presented to the other family as a part of the agreement between the two families in order for Lara’s family to give their daughter to her cousin.<sup>574</sup> The story of her engagement started when Lara’s cousin fell in love with a girl from another family and proposed to her, but the girl’s family wanted another girl in exchange for theirs. Lara’s family decided to give Lara to the man and then the family agreed to let Lara’s cousin marry their daughter. The jin ba jin tradition is still in practice today by some Kurdish families belonging to a tribe, as well as in rural areas. Although it was more common in the past it can still be noticed today from time to time.

Nazaneen was subject to the jin ba jin tradition too. Nazaneen said that her brother wanted to marry a girl and her family asked Nazaneen’s family to offer a bride in exchange for their daughter, and thus Nazaneen was given to the other girl’s family and married to their son.

Nazaneen told me that her husband would beat and shout at her whenever her brother beat his wife. Nazaneen has a daughter, and her first husband divorced her and took the daughter because Nazaneen’s brother divorced his wife, who was the sister of Nazaneen’s husband.

Jwan, a case manager in Assuda, explained during our discussion on the situation of women in the area that this type of marriage commonly ends in divorce, because if any of these men beat their wives or have problems with them, then the husband from the ‘exchange’ family will often do the same or divorce his wife even if there are no problems between them. He will do this only in retaliation for what happened between his brother-in-law and his sister.

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<sup>574</sup>Cousin: the term is used as referring to the uncle’s son in this research. (Kure mam/Amoza).



### **6.1.2.3 Women as a Means of Conflict Resolution**

This type of marriage is seen when women are used as a means of reconciliation in conflicts between families. Lara also went through this experience, since her family had a fight with another family. The problem was that Lara's uncle killed someone from that family and the family of the deceased wanted revenge. So, Lara was offered up by her family to be married to one of the men who wanted to stop the cycle of revenge. Lara refused to marry that man and tried to commit suicide: "I tried to refuse the marriage and I tried to kill myself by pouring petrol on myself but I failed." Despite the suicide attempt, she was forced to marry this man. Lara was the only respondent who suffered through many types of marriage and is the only one among the respondents who was used as a means of conflict resolution.. Jwan, the case manager in Assuda, Shokhan activist in women's issues and the head of WOLA,<sup>575</sup> mentioned that this type of marriage is less common now than in the past, but it can still be observed in different areas, especially between families that belong to a certain tribe in Iraqi Kurdistan even today.

### **6.1.2.4 The Marriage Decision**

The man and woman should be suitable is one of the most important conditions for families to agree to a marriage; this is because the families of both the bride and groom aim to maintain and extend this relationship in the hope of avoiding a future divorce. Furthermore, the marriage between a woman and man is seen as a means to strengthen the relationship between the two families; therefore, the decision to agree to a marriage is not made by the woman but by her family.

In some cases, however, a man may marry to a specific girl that he has seen and taken a liking to; the man then tells his mother to inquire about her and her family because he wants to marry her. Bana was one of these cases. Her ex-husband saw her near her house with her mother buying vegetables at small shop, got her address from the seller who was a friend of his, and told his mother to inquire about Bana and her family. Another respondent, Hana, said that she was at work when a customer saw her, and asked his friend who was working with Hana in the same office all about her: what she was like, her name, address and family name. He then asked his mother to get more information about Hana.

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<sup>575</sup> For more details please see chapter five the expert's interviews.

The male members of a bride's family have to agree to the marriage before it can take place. Male members of the family might include not only the father and brothers, but also uncles or other male relatives involved in the marriage decision. In some cases, like those of Sewa, Lana and Bayan, the mother's consent is also taken into consideration.

In only three out of all the cases I examined; the mother together with the uncle and the uncle's sons were involved in the woman's marriage. In these cases, the uncle's son made the decision and not the father.

Shanaz told the story of her wedding, explaining that when her husband's family asked Shanaz's family for her hand in marriage, this meant he was proposing to her. So, Shanaz's mother asked Shanaz's uncle's sons whether they agreed that Shanaz could marry this man who had proposed to Shanaz along with his family. Although her father was alive and present, she said that he had no authority and that her brothers were very young and also had no say on the subject. "My father had no authority and my brothers were young so they did not say anything" (in-depth individual interview with Shanaz). Her mother was employed and was the decision maker in the household; her father was old and unemployed. Her mother decided to ask the son of Shanaz's uncle to inquire about this man who proposed to Shanaz, but in the end the son of Shanaz's uncle refused to allow the marriage. Shanaz's mother was in favor of it, however, and insisted on the marriage, so that Shanaz did indeed marry the man.

In cases where the father has died and the brothers are still young, the mother may also take on the role of the decision maker. In the case of Lana, a divorced teacher, her mother was the one who had the authority and made the family decisions. Lana's mother was a retired teacher, an educated woman who played a big role in the lives of Lana and her younger brothers and sisters. Lana's father died when she was a teenager.

Since many respondents mentioned the word 'suitable' or 'good' as an adjective to describe men, I started to ask about the meaning of this word. As explained by Sandra, Maha and Sewa, a good or suitable man means a man who is from a good family, a family with a good reputation ("سمعه تيان باش بيت / سمعة جيدة") and is not involved in "bad things"/("نیشی خرابه نه که ن). This is to say, they should not be involved in prostitution, and the man should have a job and an income that can support a family.

Some of the respondents, like Sewa, Maha, Sandra and Hana, mentioned that a good man should also be a good Muslim, pray and help others. Maha explained further that a man has a good reputation if he does not harm others and whose family does not harm others and he does not steal or do dishonorable things like having relations with other women. The family of the women considers the man's reputation to be the most important condition for agreeing to a marriage.

Many of the respondents mentioned that they wished they had had the chance to get to know the man before they get married. Shanaz, married a man who was having an affair with another woman, a rich woman. She explained that this was one of the reasons behind her divorce. She said,

“[...] later I found out that he(my husband/ peawakam) was in a relationship with another woman and she was coming to our house and they were meeting with each other in the middle of the night in a room ...oh...he was unfaithful (bea wafa u dawen pes bw). That is why I got divorced, I could not live with him. I wished I had known him, had a relationship with him or knew his family.”

Another respondent, Daliya, said that her husband's family was working in prostitution, so she wished that she had known him before the wedding. Maha also mentioned that her husband did not love her and was not sleeping in the same room with her like husband and wife. She also mentioned that he repeatedly beat her and shouted at her and she wished that she had known him before marrying him.

Furthermore, although there are many girls who can marry for love, meaning that the woman and man may love actually each other, again the family needs to accept the man and his family before that marriage can take place, and so the same steps of arranging the marriage process must be followed. This type of marriage for love has historically been observed in the Kurdish community, and there are many stories of love, some of them ending in marriage if the families agree to it, others ending in honor killings if the families do not agree. Sometimes, the man or the woman or both lovers are killed, especially if they escaped far away from their families but were later found. In those cases, one or both of them may be killed. This is very well known in Kurdish society, and is called 'honor killing',<sup>576</sup> in the name of a family's 'honor.' In

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<sup>576</sup>Honor is linked to the woman: In fact, the reason why only male members of the family can decide on and agree to a woman's marriage is linked to the fact that men are supposed to uphold the honor of

the Kurdish community, murder (honor killing) is an answer to 'unacceptable' love between a man and a woman, and is wide-spread<sup>577</sup> and clearly recognized.

Many respondents mentioned that they expressed their opinion or their refusal of the marriage, but nobody listened to them. If women do not consent to the family's decision to refuse or allow a marriage, they are considered not to obey the male members of their families, which could put them in a very critical position. They are then subject to discrimination within their families or other restrictions. In the worst scenarios, they are considered to have harmed the honor of the family and are rejected by the families or killed. Lara is one of the cases that reflect the consequences of refusing to obey the family. Lara got divorced and afterwards the man who she loved came to ask for her hand, but Lara's family refused the man and his family. Lara ran away from her family's home. She did not go to the man she loved because she was afraid that her family would find her and kill her. She went to the shelter and up until the time when I interviewed her, Lara's life was threatened and her family has tried to kill the man she loved many times.

It is worth mentioning that girls and women also have their own reasons for accepting marriages either at an early age or in an arranged way. Some of them stated that they accepted in order to "change their lives." When I asked what sort of changes they wanted to make, the answers included improving their financial situation and reducing the financial burden on their families since they did not work or support themselves. Maha married at the age of 17 because her family was poor and she wanted to have a better life and minimize the financial burden on her family. Maha said: "One person fewer is better and will lessen the financial burden on the family." The second reason

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the family. A woman can only damage the family's honor but she cannot save it. A family's reputation and position in the Kurdish society are always linked to and measured by honor, and honor is always related to women who are given the task of representing the family's honor. Therefore, Kurdish families prefer for their daughters to get married in order to restrict and bind them to a man; it is then the husband's job to protect her. The tradition of forced early marriage has long roots in the society and has been transferred from one generation to the other quite uninterrupted up to the most recent one. For more information about honor killing, please see: Begikhani/ Gill / Hague (2010): Honour-based violence and honour-based killings in Iraqi Kurdistan and in the Kurdish Diaspora in the UK: Final report.

<sup>577</sup>For more information about honor killing please see: Begikhani/ Gill / Hague (2010): Honour-based violence and honour based killings in Iraqi Kurdistan and in the Kurdish Diaspora in the UK: Final report.

interviewees mentioned was to escape the family's restrictions on their movement and other sorts of restrictions, and also to establish their own family their own households. Marriage for these respondents was seen as a chance to change their situation. Thus, escaping their situation in their families was the reason for their decision. Daliya also got married when she was 17 years old, but said her reason for getting married was to avoid the quarrels with her family and the restrictions placed on her by her brothers.

#### **6.1.2.5 Rituals of “Acceptable Marriage” in Kurdish Society**

Respondents repeated the term “acceptable marriage” several times, which led me to question the meaning of this term. The women revealed that in Kurdish society a marriage is considered acceptable when the established rituals are followed and conducted in an acceptable way according to both the family of the bride and the family of the groom. After the initial idea of bringing a man and woman together by either the man or a third party inside or outside the family, the marriage process starts with the family of the groom visiting the bride's family and proposing. Respondents mentioned that their families viewed this initial visit to be very significant, because it shows that the girl's family is respected by the man's family.

Some of the respondents mentioned that every form of contact between the girl and the man before this visit and in the time between this visit and the consent of the male member of the family is perceived as unacceptable. The acceptable relationship starts when the two families meet and the male members of the girl's family consent to the relationship. This visit is normally arranged in such a way that the man has to make an appointment before visiting the family and the woman is allowed to see the man in the presence of her family. The family of the groom might be given an immediate answer or they might be asked to wait for some period of time until male members of the girl's family asks around about the man's reputation and the reputation of his family in case he is not well known to them. If the family of the woman finds the man 'suitable' or 'good' for their daughter, they agree. If he is not suitable, they reject the marriage proposal. In many cases, the man who proposed is one of the relatives of the family or he is well known to them, while in other cases the female members of the man's family suggest the woman to him.

The practice of “asking about the man and his reputation” was considered very questionable according to some respondents. Some questioned this practice, saying

that it was not always successful because the family normally asks third parties about general things like his ethics and behavior in public and with other people, and if he went to jail for any reason and other such behavior. They do not ask whether or not he himself is a good man. According to respondents, this practice is not able to reveal whether the man is aggressive or impolite. Another issue brought up by respondents is that the girl's family normally asks the man's neighbors or relatives, and these people might say only the good things or lie about the man. The case of Daliya can illustrate this dilemma. Daliya stated that when she got married, her family did not correctly ask about her husband's and his family's reputation or they may have asked the wrong people. After Daliya got married and moved to live with her husband's family, she discovered that they were working in prostitution. She returned to her family's home and told her brother. Daliya's brother then went and asked about them again from other sources, this time from the people who worked with Daliya's husband and also the husband's old neighbor in another neighborhood. One man told Daliya's brother the same things that Daliya discovered by herself, and asked her brother why he did not inquire about this family's reputation earlier. Daliya's brother told her to ask for a divorce and blamed himself.

The respondents explained that if the family of the bride accepts the groom, this means that the two are engaged.<sup>578</sup> After the engagement and the agreement of the male members of the bride's family, the next step will be 'acceptable' when the groom's family pays the bride wealth, called Mare/ Mahr<sup>579</sup>(المهر) to the bride's

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<sup>578</sup> The engagement is called marabrenin the Kurdish language.

<sup>579</sup> Mare/ Mahr: Bride wealth is one of the financial rights given to the wife by her husband. It is one condition in fulfilling the marriage contract, thus it is one of the woman's financial rights that she receives when her family accepts her marriage to a man. This is stated clearly as an Islamic tradition that is followed in Kurdish society as well as in most of the Muslim world, but it differs in form from one community to another. In Iraq and Iraqi Kurdistan, women's right to their (Mahr/Mare) dowry was determined in Article 20 of the Iraqi Personal Status Law No. 188 of 1959, and the families of the bride and groom should agree on the amount and type of the (Mahr/Mare). When women marry in the Kurdish community, the grooms have to pay Mahr (in Kurdish Mare) for the brides. The [Mahr] in Iraq and Iraqi Kurdistan is divided into two parts: an immediate or present early payment [Peashake] that is given to the bride as a wedding gift, and a deferred payment that is a postponed payment of the Mahr that can be paid any time to the bride, considered her 'bride rights'. This is also one of the Muslim traditions during the marriage ceremony that was adopted by the Kurdish community as well.

family. Mare/ Mahr includes gold, money and clothes paid to the bride before the wedding ceremony. The amount of Mare/ Mahr is determined by the bride's and groom's families together. The two families discuss how much should be paid as Mare/Mahr as well as Muakhar Sidaq/ Mahr Muakhar. This latter is the deferred payment made to the bride after a divorce or when the groom dies.

The amount of Mare/Mahr paid to respondents varied from one to another. Hana said her Mahr was about 100g of gold (20 Mithqal<sup>580</sup>) and her Muakhar Sidaq/ Mahr Muakhar was 100 golden Ottoman Liras (100 ليرة ذهب عثمانية). While Mare/ Mahr is paid in a ceremony that includes the relatives and the families of the bride and groom, the bride also get more gifts like gold. The engagement period may be for one month or for a number of years, as in the case of Lara, who became engaged and then remained in the engagement period for four years. Thus, this also depends on the family and what they agree regarding the period of the engagement and the time for the wedding. They then begin the marriage preparations by buying new things needed to start a new small family. But, also the type and amount of Mare/Mare/ Mahr differs between families and women. In some families, they ask for gold as Mahr, while others ask for an amount of money to buy the gold and new clothes for the bride (their daughter), like in the case of Nazaneen, who said that her family asked for 1,500,000<sup>581</sup> Iraqi Dinars to buy the gold for her and 150,000 to buy her new clothes. Her Muakhar Sidaq/ Mahr Muakhar was nineteen and a half mithqal following the Sharia law. As she explained, Muakhar Sidaq is preferred to not exceed nineteen mithqal and a half).<sup>582</sup> Kani said that her Mare/Mahr was 20 Mithqal and that her

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<sup>580</sup> Mithqal: a measurement unit used as an Islamic measurement, mentioned in the Quran, but is also a known measurement for gold. One Mithqal is equal to 4.25 grams. For more on othis, please see: Bradford, Joe Weights and Measures – Oxford Encyclopedia of Islam and Law Joe Bradford [https://www.academia.edu/2250037/\\_Weights\\_and\\_Measures\\_](https://www.academia.edu/2250037/_Weights_and_Measures_)

<sup>581</sup> One dollar was around 1,200 Iraqi Dinar in 2019.

<sup>582</sup> According to traditions and norms in Iraqi society and in the KRG, the amount of Muakhar Sidaq/Mahr Muakhar is determined and preferred to be no more than nineteen mithqal and a half; this amount is always mentioned in Sharia law, however there is not any real stipulation or limitation on Mahr.

The Prophet (peace and blessings of Allaah be upon him) said: “The best of marriage is that which is made easiest.” Narrated by Ibn Hibbaan, classed as saheeh by al-Albaani in Saheeh al-Jaami.’. And he (peace and blessings of Allaah be upon him) said: “The best of mahrs is the simplest (or most affordable).” Narrated by al-Haakim and al-Bayhaqi, classed as saheeh by al-Albaani in Saheeh al-

Mare/ Mahr Muakhar was 200 golden Ottoman Liras (200 ليرة ذهب عثمانية). Nzar, a lawyer working in the family meeting center, told me about Al-Mahr/ Mare during our interview when we were discussing problems related to divorce. He said that there is no special measurement in Kurdish society regarding the amount of the Mahr and Muakhar Sidaq / Mahr Muakhar; it depends rather on how the two families (the family of bride and the family of groom) come to an agreement. Additionally, the two families have to agree on whether the bride will live in her own marital home or whether the bride will live with her husband's family in the same house or in a separate house.

### **6.1.3 Ending in Divorce: Causes and Consequences**

#### **6.1.3.1 Forms of Domestic Violence against Women**

Divorce was the main consequence of getting married at an early age or being forced to get married or even marrying a man whom the women did not know well before getting married. These factors are not the only ones mentioned by respondents, but they increased the chances of having a difficult marriage and thus having to ask for divorce. However, there are many reasons mentioned by respondents that led them to ask for divorce; some of these women could not accept the man sexually and were forced to have sex every day. Many respondents experienced domestic violence from their husbands or his family, other respondents stressed the difficulties combined with living with the family-in-law and named these as the reason they got a divorce.

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Jaami', and the Prophet (peace and blessings of Allaah be upon him) said to a man who wanted to get married: "Look for something to give as a dowry (Mahr/Mare), even if it is a ring of iron." For more, please see the link below:

<https://islamqa.info/en/answers/10525/reducing-the-mahr-is-the-sunnah>



#### 6.1.3.1.1 “I didn’t know him”; “I was too young and shy to sleep with him”

Most respondents did not know their husbands before getting married, they did not love them and this made their situations difficult, specifically in the cases where the women were very young. Another issue was that almost all the respondents who got married at an early age considered their lack of knowledge about marital life and sex as the main difficulty that they experienced. Respondents were not provided with the necessary information about sex and, at this early age, having sex for the first time was for all respondents a very complicated experience. Even if they were prepared by their mothers to be good wives and mothers, still most respondents had never talked about sex with their mothers. Girls at this early age are not allowed to talk about sex in their families.

In addition to the lack of information, respondents were too shy to have sexual intercourse. Maha and Shanaz talked about their experience of marriage at an early age. Shanaz married when she was 17 years old; her story illustrates how women in Kurdish society have no awareness around sex; she did not know how to have intercourse with her husband, as she said:

I did not know what love relations meant even when we got married. I did not know how to sleep (bxawm/ have intercourse) with him, he always came near to me and kissed me and I was shy, I was going away from him because I did not know him or accept him. I did not know what to do. He wanted always to go to bed with me and he could not understand that I did not know how (the manner) to do this (chee bkam) and nobody told me about this before. I was shy and did not know how to pleasure him or do the things that make him interested in me. I was too young and shy to have sex. Nobody explained to me what sex is. (In-depth individual interview with Shanaz)

Shanaz added that having no knowledge about sexual intercourse made the understanding between her and her husband limited, never talked to her about sex or listened to her. Shanaz told me how he beat her when she refused to have sex even he was punishing her by preventing her from going out so that finally she could no longer bear the situation and returned to her family. During the interview, Shanaz said, “I was too young, I rejected him.” She wished that she could have married at an

older age so that she might have had more knowledge about sexual intercourse and thus could have avoided the problems that caused her divorce. "If I was marrying him at an older age, not at this young age (law tamana bchwka), everything would have been different. I can at least try to speak to him and know him better, make him listen to me, now I understand life more than before." (In-depth individual interview with Shanaz)

In the words of Maha, "I was too young to know that (lawa teabgam); and I was too shy as well to do it." Maha, married at 17 when her father agreed to the marriage and she decided to go along with it. She met her husband once before the marriage and in the presence of her family members, but could not talk with him. Maha explained that she is the first daughter, as she stated, she did not have any knowledge about married life. "I am the first child or the first daughter and had no information about the marriage issue. Nobody talked to me about what would happen." (In-depth individual interview with Maha)

#### **6.1.3.1.2 Forced to Have Sex**

Some other respondents explained that they were forced to have sex, which made them ask for a divorce. All respondents who had such an experience said that they did not want to have sex with their husbands and said this to them clearly, but were forced to have sex with them anyway. Lara and Nazaneen are both divorced women who did not finish primary school. Lara married when she was 15 years old and Nazaneen married when she was 16 years old. During the marriage, they were forced to have sex. Lara said that her husband would force her to have sex every day and that if she refused he would bind her to the bed or beat her and have sex with her. This led Lara to escape from her house and ask for a divorce.

Nask's husband was also forcing her to have sex repeatedly and was beating her to make her afraid and intimidate her into doing what he wanted. Nask explained that one day after her husband beat her; she called her brother and told him to come and take her back to her family. She explained that she could not bear this anymore but said that she could not tell her family that her husband was forcing her to have sex; she only told them that he used to beat her every day without reason.

The respondents did not mention the word 'sex' directly, but expressed it with the phrase 'sleeping with me.' This is what is used in the Kurdish community to express

this act. To confirm, I asked Nask and Lara, “Can you explain what you mean by ‘sleeping with you?’” They answered that they meant the sexual relationship between husband and wife and they said this in a very low voice.

#### **6.1.3.1.3 Living with the Family-In-Law is Difficult**

Many respondents who moved in to live with the family-in-law after the wedding encountered many difficulties in living with the new family. Many respondents explained what they suffered in their new life with the in-laws. Nask told me that when she got married she lived in her mother-in-law’s house with the family-in-law. She had one room in the house, and that she was living with her mother-in-law and six brothers-in-law and had one sister-in-law. The sister-in-law was married and visited her mother twice a week. Nask said that she was doing all the household chores, cooking, cleaning and washing dishes. She said:

My sister-in-law was visiting us twice a week; she was not helping me in the work, she was not doing any work and also she and my mother-in-law were meddling in my life. They were asking “Did you have your period this month? ... Are you pregnant?... Why did you buy all these clothes?” One day, we had a lot of work in the house; I did most of it. I could not wash the dishes, my sister-in-law told me to wash them. I said that I cannot, maybe later. My sister-in-law started to speak, I answered her then in minutes all the family was against me, fighting me. My husband came and started to insult me. (In-depth individual interview with Nask)

Nasreen got married for a second time and lived with her family-in-law. She said that her mother-in-law was putting pressure on her and controlling her life. If she bought anything, her mother-in-law wanted to see and know all about it. But also her sister-in-law was always intervening in her life and doing the same as the mother-in-law. Her husband was always obeying and doing what his mother said; he was doing and believing what his mother told him about her. Nasreen said that her husband would beat and insult her because the mother-in-law was always creating problems Nasreen told me that one day she was at her mother’s home, and when she came back with a lot of bags in her hand and entered her room, changed her clothes and come to sit in the sitting room with them, she said that her sister-in-law started to ask questions

about what she bought and her mother-in-law told her that she was a spendthrift woman, did not support her husband and did not care about the home and the other people in the house. Nasreen said that she answered and told them she also needed clothes and they should not intervene or ask her about it; Nasreen said that her husband came in when they were shouting and he told Nasreen not to speak and that they were right - why had she bought unnecessary things? She said that she answered her husband, asking him why the mother-in-law was intervening, and the husband insulted Nasreen with bad words, she said, and beat her all because of the mother-in-law.

All in all, most of the respondents suffered from the intervening by the mother-in-law and the family-in-law. Daliya, Maha, Nazaneen, Sandra and Shanaz told different stories about how the members of their family-in-law intervened in their lives. Maha lived with her husband in a house far away from her in-laws, but she rented and shared a house with her sister-in-law. Maha said that her sister-in-law was spying on her and going to tell Maha's mother-in-law what Maha was doing and where she was going. Thus, according to the respondents, the mother-in-law and sisters-in-law often intervened and tried to control their life.

Because of these difficulties, violence and abuse, the respondents asked for a divorce. However, after the divorce life was also not easy. In fact, respondents faced many challenges in their families following their divorce. For example, they may have gotten divorced because their marriage was unhappy and the divorce did solve those problems, but the moment they got divorced they found themselves in other similar or different difficult situations caused by their families or the society. Most of the respondents explained that being divorced was an ambivalent situation in which there were both positive and negative aspects.

#### **6.1.4 After the Divorce: Challenges and Achievements**

The following section will explain what exactly it means for a woman to be divorced in Kurdish society, an overview constructed from the experiences she undergoes after getting divorced and how this affects her daily life. Thus, the main challenges that face divorced respondents are explained next. I have grouped these challenges into two categories: social and financial challenges.

### **6.1.4.1 Social Challenges of Being a Divorced Woman**

“Being a divorced woman is very challenging”; divorced women are “bad women” or “women with problems”; “everyone talks badly about them”: these quotations are mentioned by almost all respondents and reflect the perception in Kurdish society towards divorced women. Many dimensions will be explained in relation to the social perception of divorced women, as this was the focus of almost all the respondents I interviewed.

#### **6.1.4.1.1 Divorced Women Subjected to Gossip**

Answering the question about their situation following divorce, all respondents mentioned that divorce is viewed in their society as a bad or shameful thing, and that divorced women face many challenges when they come back to live with their families after their divorce. They may, for example, suffer more restrictions imposed on them than before they were married. Daliya, who is 19 years old and divorced, said that when a woman gets divorced, she will be the center of attention of all the people living around her and who know her, including neighbors, colleagues and relatives, among others. They think that she is a bad woman and that is why they gossip negatively about her. Most of the things they say are not true. Daliya explained,

People talk about every divorced woman, they say bad things. To give you an example, if I walk in the street and a group of our neighbors are standing and talking, they will be silent if I pass them and then start talking about me and I will hear them laughing as I go by. I know they are talking about me; also in their meetings and at celebrations I hear them talking about me and winking to each other, also my relatives often heard people talk badly about me. (In-depth individual interview with Daliya)

Daliya suffered a great deal because her brothers consistently forbid her to leave the house. They justified this by saying that people would talk about Daliya (because she is a young divorced woman), and therefore they prevented her from working or going out anywhere. She thinks that especially because she stayed with her husband for only four months that people were going to assume that her husband did not find her to be a virgin (kch nabwa), which would explain why she was divorced so quickly after four months.

#### **6.1.4.1.2 Only Women Are Blamed for the Divorce**

Generally, respondents explained that people have a negative impression about the reason behind a divorce and that people always blame the woman as the one responsible for the divorce. These people linked the cause of divorce to the women in different ways. When a divorce happens, people immediately think the woman must have been ‘bad’ and behaved badly, or that she was not able to bear the husband and his family. Maha is one of those divorced women who asked for a divorce from her husband due to physical violence, but she stated that people looked down on her as not upholding her marriage responsibilities:

People see me as a person who did bad things or that I am a person who could not accept things, bear the situation, marriage problems, and that I should tolerate the bad treatment from my husband and his family; but I didn’t have any problem in my body or in my mind or in my behavior. I did not do anything wrong that would affect my reputation or my family's reputation. (In-depth individual interview with Maha)

Bayan revealed that people thought she got divorced because of her bad behavior:

People are looking at me differently; when I tell anyone that I am divorced, they look at me and say “why?” I say, “Yes, I am divorced. My husband was very bad to me.” They think that maybe I got divorced because of other things (bad reasons), like loving another man. (In-depth individual interview with Bayan)

Other people's perceptions have a negative impact on divorced women’s lives. The majority of the divorced women I interviewed expressed their fear of what people would say, which was reflected in the divorcees’ behavior. They limited their own movements and actions in order to avoid negative gossip. Daliya, who got divorced at 19, was very careful to avoid people gossiping about her divorce. Her fears of what people might say affected her psychologically as well as academically:

I am afraid of people talking, I am afraid of what people might say about me. Whenever anyone becomes divorced (bewa-jin), the people talk about her reputation and her behavior. I am so concerned about what people are saying; I worry so much and cannot sleep. I am afraid of people and why they are speaking (like this). I do not know how I can manage my school, I

do not even know how I can be successful in school, I cannot study. (In-depth individual interview with Daliya)

People's perceptions of divorced women do not only affect the divorced women's lives, but also the lives of their family members and, as a result, those who get divorced live with harassment and are often threatened by their own families. Lara stated:

I was sleeping with my father and mother in the same room. My younger brother was looking for a chance to kill me; I was sleeping in the room with them because I was afraid of my little brother because he was affected by people's words. (In-depth individual interview with Lara)

Lara's story reveals how other people's perceptions reflected on her family members. She stated that her brother would look for a chance to find her alone and kill her. The roles of family in women's lives are discussed in more detail in the family section. Some other respondents explained that their family members stood by them and this allowed them not to care about what people were saying about them, like the respondents Sewa, Hana, and Lana. Hana, a divorced woman, said her parents, sisters and brothers stood by her in the face of gossip. The situation is the same with Sewa, whose parents supported her and did not care about what people said: "They always tell me 'do not care and continue your life and do what you want, people are always talking about all of us.'" Sewa continued:

Sometimes people like our relatives and neighbors or family friends ask my mother, Would it not be better to stay with her husband, was he so bad that she couldn't stay with him, and was it not better for her to not get divorced, especially because of her children? They still need their father, but if he is bad why did she not ask for a divorce earlier and only now after she delivered four children? (In-depth individual interview with Sewa)

### **6.1.4.1.3 “The Divorced Should Act Divorced”**

Kani, Nasreen and Maha are among the respondents who described being divorced as uneasy situation that forced them to act in a different way than before they got married. They explained this by describing the restrictions enforced upon them by their families or the society. Examples of these restrictions given by respondents include not being allowed to leave the house freely, and not being allowed to laugh out loud or speak with men outside the family. Kani, a divorced woman who works as a hairdresser and attends night school to get her secondary education degree, explained it this way:

Being divorced obliges you to act like a divorced woman every day; you should always remember that you are divorced and not forget it. Shelan: Can you explain what you mean by [acting divorced in everyday life]? Kani: This means that because of being a divorced woman, I cannot move about anywhere or go to the market alone or other places alone; I am not supposed to laugh out loud, not speak with men outside the family, not even with the neighbors; I am not supposed to go out of the house often. (In-depth individual interview with Kani)

Kani positions herself as a divorced woman in comparison to being an unmarried girl, explaining that more restrictions could be placed on divorced women than unmarried girls. However, some respondents explained that as an unmarried girl, the same restrictions applied to them. I could explain this contradiction by noting that when they were unmarried girls their movement was restricted by their families because the families wanted to keep them safe, but now as divorced women the same restrictions that were found to be acceptable before getting married are now viewed as negative after the divorce.

Along the same line of thinking is the report by Lana, a divorced mother of one daughter. Lana mentioned that her life was happier when she was a girl, and that she had relatively fewer worries than after divorce. What Lana adds to this category is that she has a daughter. She always worries whether her daughter is affected negatively by the fact that her parents are divorced. Lana is even worried about her daughter's reputation and image, in a society where people think the daughter is raised by 'a divorced woman,' and asks herself whether her daughter might be negatively affected in terms of her own chances at marriage. She refers to a Kurdish



proverb that goes, "See how the mother is and then ask to marry the daughter" (Dayk bbena u duta bxwaza). All these thoughts instill fear in her for her daughter's well-being. Lana adds that, when she was a girl, she enjoyed her life by going out with her friends or going shopping with few restrictions but, today, in spite of the fact that her family helps and supports her, she cannot act as freely as she did when she was a girl. She feels worried about her life as a divorced woman.

The most common rule laid down by the women's families after they got divorced and returned to the family home was the restriction of their movement, rules preventing them from going out simply because they were divorced women. Some of the women said that after they got divorced and returned to the family home, they were prevented completely from moving about outside the house, like Lara, Nazaneen and Sandra.

Another restriction enforced upon divorced women was that even if they do go out of the house, they have to come back before Maghreb (sunset and sunset prayers). This is mainly because women who come home later than Maghreb are judged in society as being bad women. Kani is among the respondents who spoke about the rule requiring her to come home before Maghreb, which was imposed on her by her family after her divorce. Kani explains:

In my family I am the only girl among my brothers. My life was so happy without sadness when I was a girl, my father offered me whatever I wanted. I was going out and living my life, but after the divorce everything changed. Even though my father and mother are helping me to make it through this difficult experience, it is still hard. I cannot go out like before, or alone, and if I went anywhere I would have to go with my mother or my uncle's daughter, and we would have to be home before Maghreb because I am divorced now. Shelan: Can you tell me more about why you must be home before Maghreb? Kani: People in Sulaimani are used to being home before Maghreb prayer to have dinner; the shops are closed at Maghreb prayer. This is from the past and was for everyone, men and women, but now especially this rule is more for women... and nowadays, you see there are changes, there are these big markets and restaurants and coffee shops, they are open the whole day until midnight. This rule of coming back home before Maghreb is applied to divorced women and widows mostly, but this rule is

also used by some families with their girls. (In-depth individual interview with Kani)

The obligation to be home before Maghreb prayers was mentioned also by Maha and Bayan. They explained that when they go out they are not allowed to go alone and must return home before Maghreb. This rule, as explained by some of the respondents, is among the constraints imposed by the people living in Sulaimani and is one of the commonly known traditions that is still in practice today Kani mention that this rule is not only for divorced women but also for girls and women.

This rule was generally applied not only to divorced women, but also to women who were unmarried, married or widowed, and even for young, unmarried men. In the past, the city was smaller than it is now and this rule was made to protect people from being in danger of theft or harassment after sunset. This was mentioned repeatedly by the respondents. Some respondents confirmed that it is indeed a Muslim tradition applied in the Kurdistan region.

#### **6.1.4.1.4 “Divorced Women Are Not Virgins”**

[...] when you are a girl, you are different; no man harasses you or thinks he can have sex with you outside marriage, but being divorced is very difficult, because every man thinks that if he has sex with you outside of marriage he will not be blamed for making you lose your virginity, and the men think because you are divorced and are not a virgin that you will agree to have sex with them because you used to do it with your husband and now you want to do it and if you do it no one will know about it because you are not a virgin.

(In-depth individual interview with Bayan)

Sakar and Bayan in their narrations also drew comparisons between the time when they were girls and their situations now being divorced. Unlike when they were young girls, they revealed that they are now approached by men asking them to engage in “love relations” and they think that this love relationship would definitely end in sexual intercourse without marriage.

Sakar, a young divorced woman, said that "being a girl is different from being a woman; I am a woman now." Moreover Bayan a divorced woman attending night school, told me that she had the same experience:

Because I am a divorced woman (what I tell you happened to me and to my friend, she is also divorced), many young men like our neighbors and those who have shops in the street near our house try to speak with me when I am on my way home from school. They think that if you are divorced (not a virgin), you will have love relations with them because you are not a virgin. Another thing is that men think that you are weak and destroyed (because you are divorced and you already have a bad reputation, having love relations with them will not make it worse); they want to attack your weaknesses. Most of them do not love you but want to have love relations only. (In-depth individual interview with Bayan)

Due to this harassment, Daliya, who went back to continue her secondary school after a divorce, was prevented from going out alone at all for any reason by her family, while this was not the case when she was a girl.

Nasreen also faced harassment in some of the jobs that forced her to leave. Because she was divorced and needed the money for her children, she was asked by men to have intercourse with them for money, which she refused many times.

#### **6.1.4.2 Financial Challenges of Being a Divorced Woman**

Being a divorced, unemployed woman with children and without a family's financial support was noted as being one of the biggest challenges in everyday life for many of the respondents. It was revealed that many of the respondents receive alimony, which is the husband's provision for his spouse after divorce. Some are aided financially by their families, others not; some of them work and because of that they are financially independent. Nasreen, found it difficult to raise her children alone without support, despite the monthly child support she receives for her children totaling a mere 150,000 Iraqi Dinar, around 130 dollars as of 2015, which is considered a very small amount of money that is not enough to pay the rent for the house or buy enough food and necessary clothing for her and her children.

She gets this amount of money only when her ex-husband receives his salary and, because of the political and economic difficulties in Iraqi Kurdistan, salaries are paid by the government only every two to four months.<sup>583</sup>

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<sup>583</sup>I conducted these interviews (first phase) from January to April 2015. 2015 was the second year of the economic and political difficulties in Iraqi Kurdistan, during which time employees' salaries could

Child support is only given to a divorced mother when her children are living with her. Nasreen's family cannot support her and her children financially. Nasreen did not finish the primary school, therefore finding work is constantly difficult for her. In addition to that, she had to quit her job many times because, as she stated, the work was as hard as finding it in the first place. In her words,

The salary paid by the Office of Social Affairs is not enough and is not paid to us every month. This is because of the economic trouble that we have in Kurdistan. Therefore I should work to provide for our needs. [...] I started to work as a cleaner with a company at the University of Sulaimani. Sometimes I find jobs but it is for a short period so it is not easy for me to find a job, especially because I only studied until the 5<sup>th</sup> grade. (In-depth individual interview with Nasreen)

Nasreen was very afraid every time she lost her job that she would not be able to find a new one or that the workplace and duties would be very hard on her. In her last job, the company had some difficulties. She explains,

I am now searching for a job; it is difficult to get work in this situation. The company I worked for shut down because there is no money and the work is less than before because of the economic troubles in Kurdistan. (In-depth individual interview with Nasreen)

Another case is Nazaneen, a young, divorced, uneducated woman; she live with her daughter from the second marriage with her very poor family. They live off on her father's pension, which is only about 150,000 Iraqi Dinars a month, equal to 130 Dollars in 2015. Her second husband who divorced her is in prison. She does not receive alimony or any child support for her daughters, but gets the beawa-jin salary<sup>584</sup> for divorced women. However, just like Nasreen, she receives this money

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not be paid by the government on time such that there was a delay in the salaries paid by the KRG. Salaries were paid only every two to four months, and the government also paid only 25% of the total due. Starting in 2016, salaries were paid every two to four months on an ongoing basis, thus affecting most of the Kurdish population who depend on salaries and disbursements, including divorced women.

<sup>584</sup> Beawa-jin salary: is an amount of money that divorced woman is receive as salary from the network of social protection that this association established according to the law to protect and offer economic protection for single and divorced women in Iraq as well as Iraqi Kurdistan.

only every two to four months due to the economic and political problems in Iraqi Kurdistan. Nazaneen's father does not allow her to work. She mentioned that she would like to work, but that her father would never agree to it.

Respondents who are financially supported by their families face other sorts of difficulties. For instance, the case of Sewa who is divorced and educated but not employed and a mother of four children can be used to illustrate these difficulties. Unlike the other cases presented above, Sewa's family is able to support her financially; however, she is only given money for specific purposes like school tuition and she and her children are living with the family so they eat with the family as well. Sewa insists that it would be better for her and her children if she worked and did not depend on her family. The family pays for all their living expenses, and school expenses as well, but Sewa mentions that she does not get much money for herself which she could personally decide how to spend.

For Bayan, Daliya, Kani, Maha and Shanaz, divorced women who have no children, the financial conditions they lived in were also a challenge because their families are poor. Maha, who returned to school after her divorce, is from a poor family. Maha has a difficult life because of her family's financial status. She explained her situation:

My life is really not good; this is due to our financial status which is not so good. We are five sisters and most of us are students in institutions and universities and I am a student in the last years of secondary school. I let my brothers and sisters get more money from my parents than me because I can wait and I do not care if I have no money. I do not care about myself but my sisters and brothers should have and get the money, for example any money or income in our house is divided between us and I always get the least amount of money because I am more patient and can wait and because they (my brothers and sisters) are most in need of the money. They are students in universities; they are paying for the bus and food. Sometimes I have only 250 Dinars with me; I only care about paying the bus fare, I do not want more than that... Thus I searched for work to depend on myself and also to support my family too. (In-depth individual interview with Maha)

Maha has five sisters and two brothers. Maha mentioned that she tolerates having no money and allows her brothers and sisters to receive more money than she does.

Shanaz lives only with her mother, because her father died and her brother was killed in the 1991 conflicts between the Peshmarga and the Saddam Hussein regime, which was called the intifada. Her mother receives the pension salaries of her father and brother and owns the house they live in. Shanaz is getting beawa-jin salary after her divorce and has gone back to school but thinks the amount of money they receive is very little compared to their expenses. Daliya and Kani are also divorced young women who; their families support them. Daliya said that her father gives her money, and that her brother who lives in Europe also sends money to support her. Kani likewise receives money from her father and is also not employed .

It can be observed that most of the divorced women went back to school and wanted to continue their education, which they mentioned as a positive consequence of the divorce. The following section will describe the return to school as well as other positive consequences of divorce mentioned by the interview respondents.

## **6.2 Positive Achievements after Divorce**

Most respondents reported that getting divorced helped them to feel better or do better for themselves and achieve advancements in their lives, such as going back to school and looking for work. In addition to feeling better and happier because they are no longer being beaten or abused, they also enjoy the ability to raise their children in their own way and not as their family-in-law wishes.

Many of the respondents agreed that the most positive aspect of being divorced was the chance to go back to school. Bayan, Nask, and Kani, for example, were very proud of this achievement.

Bayan 23 years old returned to continue her studies at a night school for girls; the school was established especially for women who dropped out early and want to continue their education. She stated:

After my divorce, I started to go back to school and study again. I wanted to achieve what I could not do during my marriage or before; I wanted to have a better future [...] now I am so happy because I returned to school. (In-depth individual interview with Bayan)

Maha, another respondent also attending night classes to continue her education at one of the secondary schools in Sulaimani, also expressed happiness about going back to school; in her words: “I am so happy to have the ability to go back to school,

because my father is sick and now I am the responsible one and I have to work to help my family.” (In-depth individual interview with Maha)

Also Kani, who returned to school after her divorce, mentioned that she is happy at the school because she has friends who support her in forgetting her marital life. With their help, she feels more self-confident. Despite the fact that she is from a rich family, she said that she wanted to work and her parents encouraged her, so she is now working in a salon and has contact with people that make her feel that her life is better now than before.

Maha said that she is working and her aim was to help her family and continue her education, so Maha seemed proud of herself. She stated that her father did not prevent her from working but that her brother was always nagging her about it, so she had the idea of working in her home as a hairdresser. This was after her divorce, but her brother rejected the idea initially because he was worried about people talking about his divorced sister. But, later the brother agreed to let Maha work and when I interviewed her she was working as a cook in one of the orphanages that belong to the Office of Labor and Social Affairs. This helps her to support herself and her family.

Even though the respondents lived difficult lives during their marriages, and despite the difficulties that they are facing after divorce, some of them have gotten back on their feet and made their lives better.

Hana is one of them, a divorced, educated women in her forties, who got divorced and stressed that her life was generally much better after the divorce, that she was much happier afterwards. She revealed that she suffered a lot in her marriage and, in her words,

[...] I am happier than before and my life is much better than before. [...] This is a better life for me; it is better than fighting every day with my husband. Every day we fought and shouted and every day I lived in fear of all of these things and of his behavior, fear of any of the things he might do. For example, I was even afraid when I was preparing a meal because if there was any small thing like I added too much salt to the meal, he would be very angry and throw the food and beat me; I am not scared now. (In-depth individual interview with Hana)

Lana, a divorced teacher who considered her life with her husband to be very problematic because he was taking her salary and forbidding her to go shopping, saw

her life as better after the divorce. She mentioned that she feels she has more freedom to move about and is now far from her husband's control.

For me, I do not know what to say; I feel free because I got divorced, maybe it is better. Now I can go to the market, spend my own salary and no one will fight with me or insult or beat me [...]. (In-depth individual interview with Lana)

### **6.3 Divorced Women and Child Custody**

The divorced women whom I interviewed are classified in terms of child custody into two groups: the first group includes those women who lost the custody to their husbands as a condition for getting divorced. The second group is composed of women who kept the custody and are living with their children after the divorce. Eleven out of the eighteen women have children, six of them lost custody and five of them maintained custody.

#### **6.3.1 Complicated Child Custody**

The first group consists of women prevented from living with their children by their family or husband as a condition of getting divorced. The difficulties that this group has stem from the fact that they gave up their rights to raise their children. Nazaneen, a divorced, uneducated woman, has two daughters from two marriages; when she got the divorce from her first husband, she was pregnant and when she delivered her daughter the ex-husband took the child without allowing Nazaneen to see her ever again and then divorced her. Nazaneen said that she thinks about her daughter every day and feels sad that she cannot see her. Lara said that she agreed to give her son to her husband in order to get the divorce. Her husband and her brother made an agreement so that her husband would divorce Lara and she agreed to it. Now she is anxious to see her son and thinks of him all the time, but she cannot ask to see him.

Sandra is another divorced woman with three children. Sandra said that in spite of her husband beating and insulting her, she was not going to get a divorce. This was, as she said, to stay with her children, but her husband threw her out the home many times. Sandra wanted to continue raising her children and remain in her home, even though it was uncomfortable psychologically, as well as to avoid being a divorced and stigmatized. In the end, however, Sandra's worst fear was realized, and her brother



did not allow her to keep the children with her after the divorce: "My brother did not allow me to keep the children with me or even to see them. I do not know anything about them" (In-depth individual interview with Sandra). But, Awen's case was different. She was living with her son in the shelter because her husband beat and abused her. Her family gave her the condition that in order to return back home, she would have to give her son to the husband and his family. In the end Awen did so; she gave her son to her husband, got the divorce and returned to live with her family. Nask, who has one girl, could not keep her because her family was poor and could not buy clothes, milk and child necessities, so she gave her daughter to her husband. The same applies to Mariam who has 6 six children. Her husband divorced her and took the children and she did not stand up to him to ask for her children because, as she said, she has no family to go to and no job and no house even has not one room so she could not take them.

Even the law allows women to keep their children, but their husbands or family members still force them to give the children up.

Some divorced women were not allowed by their fathers or brothers to bring the children of a 'strange man' (the ex-husband) into the family home. In this case, the family does not agree to the added social and economic burden of their returning daughter and her young children; the family is not willing to buy clothes and food or pay for the children's necessities. They consider these children strangers and do not care about them. This forces the women, as they mentioned in the interviews, to choose between two options; either to leave their children with their ex-husband or try to accept the husband's physical and emotional abuse and not get the divorce.

### **6.3.2 Women as Winners of Child Custody**

The second group of divorced women are those who live with their children after getting divorced. These women face different challenges from the first group. Nasreen was awarded child care and rearing according to the law. She mentioned that when her husband divorced her, the judge told her in the court during the divorce session that she had the right to keep the children and asked her whether she wanted to keep them. Nasreen said that she accepted and wanted to keep the children with her, and her husband did not refuse or say anything outside or inside the court. Nasreen said that she accepted and wanted to keep the children with her, and her husband did not

refuse or say anything outside or inside the court. Having her children with her motivated her to find a job as a cleaner in offices or wherever she could find work. She believes that her children make her feel responsible and motivate her to continue working to support them:

[...] I should work to get enough money for my children. I am the person responsible for my children, and that motivated me to work and provide the necessary things for them. (In-depth individual interview with Nasreen)

Sewa considers her children a source of happiness in her life, she is worried about the responsibility of raising her children.

Hana has a son living with her. She feels strong and has no problems managing her life. She said that she has her job and her family, her sisters and brothers, around her supporting her; she is living in a rented house and paying the rent by herself. But Hana's case was different. Her husband threatened to take her son and not divorce her. She stated that she negotiated with him and was able to keep her son.

Finally, Sakar, who has three, mentioned that the husband did not want or ask for the children nor did he threaten them.

## **Chapter Seven**

### **Conflicting Roles of Families Before, During and After Divorce**

#### **7.0 Introduction**

In this part of the dissertation, the categories relating to the family's role in divorced women's lives is treated and analyzed in depth.

It was revealed from the interviews that respondents' first choice when facing insecurities in their daily lives was to ask for support from their families. Most of the respondents I interviewed had asked their families for help when they needed it, yet only some of them received the support, while others did not.

According to the respondents' life stories, their families were influential during marital life, as well as after returning to the family as a divorced woman. Families played different roles, ranging from completely supporting their daughters to completely controlling and restricting them, as well as some cases which displayed a combination of support and control. Some families completely rejected the idea of their daughters divorcing and tried to convince them to stay and tolerate the problems they were experiencing. Other families supported their daughters in the divorce process.

Since different family members played different roles in the lives of divorced women, I deal with each of them separately here, highlighting the influence of fathers and brothers representing the male members of the family and mothers and sisters the female side of the family. How each of them affected the lives of divorced women shall be the focus of this chapter.

#### **7.1 The Role of the Family Before Divorce: The Family as a Source of Protection**

##### **7.1.1 Women Asking for Support from Their Families First**

For almost all respondents, their families constitute the place and the people they can turn to in times of difficulty to ask for help or support. The forms of help they received varied from one respondent to another. While some asked for opinions and ways to solve their problems with their husbands, others asked for financial support or a place to go to escape all the forms of violence they were experiencing from their

husbands. Time and time again, the family was a very significant institution that provided respondents with social security and social protection.

Kani is a good example, because her husband would sometimes physically beat her, She stated that she got exhausted from his behavior since he would not stop his physical abuse, and finally called her family and asked for help. She was able to return to her family's home to get some sort of protection and avoid her husband's beatings, and show him that she did not agree with his behavior.

My husband was beating me and insulting me every time; I got exhausted from his manner toward me, I couldn't bear it anymore. I wanted to show him my disagreement with his manner of beating and insulting every time, so I called my family to ask them for help, then my father came and took me to his house. (In-depth individual interview with Kani)

During the interview with Maha, she explained that when she faced difficulties in her marital life and whenever she faces problems, she always asks her family to help her.

I will not ask anyone who is not from the family, no, but I will first ask my family to support me, that will be what I do and that was what I did when I had problems with my husband and his family. (In-depth individual interview with Maha)

Almost all respondents asked for support from their families when they faced different forms of violence in their marital lives. The women mentioned that their families were their first choice when they needed support and protection. Nasreen, who was physically and verbally abused (beaten and insulted) by her husband; Sewa and Hana, who were beaten and prevented from visiting relatives and friends by their husbands; Lana, whose husband restricted her movement and took her salary; Nask, who was beaten, insulted and subjected to sexual violence by her husband; and Daliya, who was beaten and thrown out of her husband's house by her husband. They all asked for support from their families when they faced different forms of violence in their marital lives.

### **7.1.2 Women's Families against the Divorce: Families Avoiding Woman from Getting Divorced**

Most of the respondents stated that their families tried to help them, but only by trying to discuss the best alternatives that would opt for saving the marriage. Thus, in most cases, divorce was viewed by the family as the worst solution and, when respondents suggested divorce as an option, family members all rejected the idea and instead offered other means to solve the problem that would guarantee the continuation of the daughter's family and marriage. Respondents explained that their families wanted to use all possible alternatives to solve the problems in order to keep the woman's family from being destroyed, especially because they know how society perceives a woman who has gotten divorced. In cases where children were involved, families tried their best to exclude the option of getting a divorce so that the children could be raised by both parents together, which is viewed as very important in the Kurdish society. They hesitated to suggest divorce not only for this reason, but also because a divorce in the family could negatively affect some of the woman's other family members, such as her unmarried sisters. Her sisters' chances of successfully marrying would be compromised due to the social stigma of the divorce. Nasreen, for example, was beaten by her husband and returned to her family's home and asked for support. Her family tried to solve the problem and talked with the husband many times, but the husband never stopped his abuse. Nasreen went back to her family's house every time, and once she told her father that she wanted to get a divorce. Her father rejected Nasreen's suggestion of divorce and told her that she had four children and it would be shameful for a mother of four children to ask for a divorce. He then forced Nasreen to return to her husband. Nasreen said that she did what she could to persuade her family to accept her request for divorce. She said that she even tried to commit suicide but failed in her attempt, and finally persuaded them through threatening her family and also her husband to burn herself and the children if they did not accept her request to get a divorce.

Sandra, went to her mother's house (her father was not alive) and asked her family to help her many times, but they just tried to calm her down and convince her to return to her husband, especially because of her children. Once she escaped from her husband's house and sought refuge in her family's home. Her husband was an extreme Islamist, and because she went out of the house many times without his

permission and because she had asked him for divorce many times in the past, he divorced her. Sandra stated that,

Many times I went to my mother's house. I told my mother and brothers about my husband and that he was biting and beating me. I asked them to help me and to do something, like ask him why he was doing that, but my family (my mother and brothers) always told me to be patient, and think of my children. They pressured me to return to him and to my children. (In-depth individual interview with Sandra)

In another case, even though Maha's family knew that her husband had sexual and psychological difficulties, they told her that the role of a wife in such cases was to stand beside her husband and support him. Maha was beaten by her husband and his family, and her husband took all her gold and sold it. Her husband was a Kurdish fighter; he would be at work for ten days at a time and then come home for ten days. He earned money but was not buying her food; he was buying what he liked to eat when he returned home, and thus Maha would go to her father's house when her husband was at work because she had nothing to eat. She asked her family to support her, but her family, especially her parents, encouraged her to tolerate her husband's behavior. Her father did not encourage her to get a divorce and become a divorced woman at such an early age. She explains:

My family told me that life is not easy, and that life will not be easier without your husband and as a divorced woman, and that is life. My father and mother told me you should stand with him and bear the situation and that he will change and respect you if he sees you standing by him. But why should I do that? I do not want to be beaten and he never respected me. (In-depth individual interview with Maha)

Lara said that when she left her husband's house, her sister told her that such behavior was wrong. The sister told her, "I hope that you will never leave your house, staying with your husband is better, think of your son and us." Lara's sister obviously wanted to convince Lara to go back to her husband. Lara mentioned that her sister was married and had problems with her own husband's family as well, because they were criticizing her. Lara said that her sister was afraid that if Lara got a divorce, this would negatively affect her own relationship with her husband and his family. When Lara escaped the physical and sexual abuse she experienced from her husband, she returned to her family (called the "father's house/Male Bawkm" by many

respondents), and told her siblings and parents about her husband's beatings. She told them that she could no longer bear what he was doing, yet Lara admitted at first she could not tell them about the sexual violence she endured. She felt ashamed (sharm) to talk about it even with her family. Lara's mother and siblings were always pushing her to go back to her husband and to tolerate his behavior. Her mother told her that men always get angry and that women should keep calm and tolerate them, especially because of her son.

In Hana's case, the family played another role. When Hana, a divorced, educated woman, decided to separate from her husband because of his physical and verbal abuse and because he was not taking responsibility for the family and neglecting Hana, her family held a meeting with Hana's husband's family to try and find a solution that would prevent divorce between the husband and wife and give them a chance to resolve their problems. In the meeting, however, they could not agree to a solution and Hana's husband continued his physical violence toward her. This time, Hana's family, her parents and siblings, all stood by her and supported her request for divorce. Hana's sister is a lawyer and pursued the case until she got the divorce. Hana has one son who lives with her since the divorce.

In all cases, it was revealed from the interviews that the woman's male family members have the right to decide about how the family will support their daughters and whether she will be allowed to ask for divorce. The female family members , however, also play a significant role, which will be discussed later in this chapter.

All the respondents above illustrated the roles played by their families, which always started with attempts to avoid divorce for many reasons, and when this was not possible they had to support their daughters.

## **7.2 The Role of the Family After Divorce**

After a divorce, women have to return to their families' homes. Most of the divorced women did exactly this after the divorce.

Some of the divorced women were supported by their families and others were not. Those who were supported received financial and psychological assistance. Those who were not supported are living in the shelter and getting support there until their case is solved; the shelter and the Offices for Combating Violence are discussed in the

next chapter. First, however, the family members' roles in a divorced women's life are presented next.

### **7.2.1 Living under the Protection of a Male Family Member**

It was revealed from most of the interviews that the families of the divorced women did not allow them to live alone. Most of the divorced women lived with their families in the family home. Most of the respondents stated that after the divorce, the first place they went was to the family house.<sup>585</sup> Some respondents do not have a family house and the fathers were dead, so they had to live with brothers or uncles. Most importantly, they had to live under the protection of a male family member. Sandra is an example of the last category, since after the divorce she lived with her brother and his wife. Her brother did not allow Sandra to live in their mother's house with her mother and sister because there was no male guardian living with them. He took Sandra to live with him in order to control her behavior, as she said.

My husband divorced me; after that I went to live with my older brother. He is married and did not allow me to live with my mother and my sister in our mother's house because there was no man there. This was to not allow me to be free; it was to control me. (In-depth individual interview with Sandra)

Sandra's case makes the important point that if a family of women does not have a man living with them, it is considered to be without a protector. For this reason, Sandra's brother did not agree to his divorced sister living in their mother's house without a man's 'protection.'

### **7.2.2 Divorced Women Are Not Allowed to Go Out Alone**

The most common rule laid down by the women's families after they got divorced and returned to the family home was the restriction on their movement, preventing them from going out simply because they were divorced women. Some of the women said that after they got divorced and returned to the family home, they were prevented from moving about outside the home. Lara stated that when she got the divorce she returned to her father's home and was ordered to stay in the house. Her brother prevented her from going out after she was divorced: "For one month after the divorce

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<sup>585</sup>Family house: Respondents called it either 'father's house' or 'mother's house.'



I did not go anywhere and I did not leave the house" (in-depth individual interview with Lara).

Nazaneen mentioned that her two divorces affected her family and that they were putting more restrictions on her. Getting divorced twice in the Kurdish community puts all the blame for the divorce on her. She stated:

[...] my family does not allow me to work, and they do not allow me even to go out. I am coming to this center only because I am sick and have a very bad psychological state. I fall unconscious from time to time. (In-depth individual interview with Nazaneen)

Sandra also experienced restrictions on her movement outside the family home.

[...] Because I was a divorced woman, my family (I mean my brother) did not allow me to go out and forced me to stay at home. (In-depth individual interview with Sandra)

## **7.3 The Role of Family Members in a Divorced Woman's Life**

### **7.3.1 Male Members of the Family: The Role of Fathers and Brothers**

#### **7.3.1.1 The Role of Fathers**

Male members of the family include the father as the key figure. The power of decision making in regards to the situation of a divorced woman is arranged in such a way that the father is the main authority, followed by the brothers and then uncles or male cousins of the extended family. In other words, in cases where the father has died or is absent, the brothers, and in some cases also the uncles and other male members of the extended family, take on the role of the father.

Some of the divorced women explained that their fathers supported them before, during and after their divorce. The father is not always a supporter, however. He can also put restrictions on his daughter's movement before getting married and also after her divorce. The father's roles were described by the women in different ways; we discuss some of these here. As the respondents mentioned, the role of the father as supporter is accepted in the community, where fathers are generally seen as providers and protectors. Bayan stated that her father supported her during her marriage when she had problems with her husband and also after her divorce. Bayan's father was closely following her situation during her marriage:

My father called me regularly and asked, "How are you? Why did you not visit us?" He even called me last week. He always knew when my voice was different, and asked "Why are you speaking so low? I had a dream about you; please tell me are you ok." My father used to send my brother to pick me up and take me to visit them. My father said he would send my brother to pick me up. I said, "No, I have more work to do today." (In-depth individual interview with Bayan)

Bayan continued to talk about her life after the divorce and how her father behaved in this situation. Bayan stated that her father told her he would protect her and stand by her until he dies. She also added that her father encouraged her to go back to school after her divorce.

My father motivated me to go back to school because he told me that through school and learning you will get the certificate that helps you to be strong and depend on yourself. (In-depth individual interview with Bayan)

Bayan mentioned that her father was helping her financially too.

My father is working in Baghdad and he gives me money; my father is very good with me, he supports me always. (In-depth individual interview with Bayan)

Even if he was kind to her, she admitted that he was also limiting her movement; Bayan justified this by explaining that her father wanted to protect her.

My father is afraid that something bad will happen to me, therefore he asked me not to go anywhere alone and not to be late; his aim is to protect me. (In-depth individual interview with Bayan)

A similar case is Maha, who emphasizes that her father cares about her and trusts her, but at the same time does not want her to go out or come home late in the evening.

My father is so good, he allows me to go out and do what I want to do because he said that he trusts me, but he always tells me to return in time [...]. (In-depth individual interview with Maha)

Sakar was supported by her father and Sewa also said that she was helped by her father financially. The father also helped them by taking the children to school or to the doctor and even buying clothes for the children. Kani, a divorcée also supported by her father, says that after her divorce, her father bought her a car on the condition that she had to be home every evening before sunset.

Lara mentioned that her father supported her sometimes, but had no real authority. Her brothers were making all the decisions about Lara's life. They never listened to their father or did what he said.

My father had no authority, my brothers and my uncle controlled him. And they were deciding about everything relating to me and also to the family.

(In-depth individual interview with Lara).

As Lara mentioned, her brothers and uncle and the uncle's sons were the decision makers in Lara's family.

### **7.3.1.2 The Role of Brothers**

In spite of the father's presence in a family, brothers and especially elder brothers generally play a significant role in their sisters' lives. In the families of most respondents, daughters and sons are treated differently. A brother is allowed to control his sister's behavior, but not the other way around. There was no case among the respondents where the sister made decisions for her brother or had to agree before her brother could. In most of the interviews, brothers were controlling their sisters in many aspects of their lives, including their movement in and outside of the house. Sisters were supposed to obey their brothers just as they were expected to obey their fathers.

It was revealed in some of the interviews that the brother's role depended on whether or not the father wanted to delegate some of his authority to his son. So, the extent of a son's authority over his family, especially his sisters, depended on whether or not his father agreed to it. However, in some cases the sons were more dominant than their fathers.

According to the interviews, the relationships between brothers and sisters can be grouped into two categories depending on whether or not the woman is considered to be a financial burden on her family: the first is the relationship between brothers and employed sisters, i.e. when the woman receives a salary or income from a job so that she is not a burden on her family, sisters from rich or moderately wealthy families who can easily support the woman so that again she is not considered a burden. The second is the relationship between brothers and unemployed sisters from poor families. Thus, the economic status of the family plays a vital role in determining the extent of a brother's authority over his sister.

### **7.3.1.2.1 Brothers Controlling Their Divorced Sisters**

All the respondents who have older brothers mentioned that their brothers wielded power over them before marriage, but that after they got divorced this power increased and intensified. In some cases, the brothers beat, verbally abused and intimidated their sisters to control them and make them obey their decisions, and in most cases the brothers did not allow their divorced sisters to go out alone. The statements of Daliya, Maha, Nasreen, Nazaneen, and Shanaz reflect this controlling brother-sister relationship.

Nasreen who's her father, was deceased, talked about her relationship with her brothers:

My brothers are always insulting me and calling me bad names which have had a very bad effect on me. [...] (In-depth individual interview with Nasreen)

Daliya's brothers who are still unmarried and living in the family home were treating Daliya roughly. Her brothers believed that she was drawing men's attention. They used this as an excuse to force her to stay at home. Daliya's father had married another woman and no longer lived with Daliya's mother and brothers; this gave her brothers even more power over her.

Lara is from a conservative tribal family that belongs to one of the powerful political parties in the Kurdistan Regional Government (KRG). To agree to her divorce, her brothers set some conditions for her. She tells the story:

My eldest brothers said: we will agree to your divorce only if you obey our conditions. These conditions were that I should not go out of the house; regardless of the reason I should not go out. My brother said, "if she is sick or burned or killed she will not be allowed to go out and she should only eat and drink and no more than that. (In-depth individual interview with Lara)

After the divorce, she was strictly forbidden by her brother to leave the house. Lara's father was present at the house, so I asked Lara to tell me more about her father's reaction to her brothers' behavior and she said that her family gave her brothers the right to control their sisters and that all the decisions were made by her brothers even though the father was alive, but he had no authority.

The respondents explained the main reasons behind their brothers' behavior as follows: Because their families give a brother the dominant role, so the brother considers himself responsible for his sister s the protector of the family's reputation.

Some of the respondents, Maha, Nasreen, Daliya, Lara, Nazaneen and Awen, explained their brothers' reactions as wanting to prevent their divorced sisters from doing something 'shameful' that would impact the reputation of their brothers, other sisters and the whole family. What seemed most important to the brothers was the families' honor and reputation. Brothers feared 'shameful' behavior and attempted to prevent their sisters from engaging in behaviors such as talking to strange men or going out of the house alone.

The main consequences of preventing their sisters from leaving the house included preventing them from going to work or school, as in the cases of Daliya, Maha, Sandra, and Nazaneen. Maha explained,

My elder brother did not agree that I may go to work; he refused and he is always afraid that I might do something shameful and this would reflect on his character. (In-depth individual interview with Maha)

Nasreen and Daliya also mentioned that their brothers feared that they might speak with unknown men, which caused the brothers to limit their movement; again, this was in order to protect the family's reputation.

My brothers [...] have not been allowing me to go out alone. My brothers are afraid that I might do something bad that would make them feel shame [halswkawteke xrap bkam ka sharmazaryan bka], like speaking with strange men. They never like for me to go out or meet people. They do not allow me to go to the market alone. (In-depth individual interview with Nasreen)

It can be concluded that brothers try to control their divorced sisters' movement because they are afraid that their sisters might possibly "do something wrong or shameful," as the women revealed in the interviews above. I asked the women what they meant by "something wrong." They replied that it simply meant any behavior that would be seen as unacceptable in society, which would then reflect on the family's reputation and by default that of their brothers.

Some other divorced women expressed a willingness to work, but found that their brothers often prevented them in numerous ways from working. The divorced women stated that their brothers were fighting with them, verbally abusing and sometimes

also beating them in order to keep them from taking up employment: in their words, to protect the women and the family's reputation. This is the case for respondents Daliya, Maha, and Nazaneen.

Daliya talked about what happened to her and her brothers' reactions:

The driver of the bus who takes me to school mentioned that there is a school looking for a person to accompany their students in the bus. Why don't you go see them and then work with them? I said, "Ok, let me think about it and tell my brothers." I told my mother and she said, "Ok, go and I will ask your brothers." I went that day to the job, oh my God, do you know what they did? They... they yelled at me and I cried so much. They told me "you did a shameful thing, you went to work without our permission and you did that and you know that we forbid you to work." (In-depth individual interview with Daliya)

#### **7.3.1.2.2 Divorced Sisters Forced to Help Their Sisters-In-Law**

Since the divorced sister is expected to stay at home and obey her brothers, she is asked to do the domestic work. If the brothers are married, the divorcées are also expected to help their sisters-in-law. This was a source of many problems for the divorced women I interviewed. Some of the respondents mentioned frequently that their brothers asked them to help their wives.

Sandra stated that she had to help her sister-in-law, raising her brother's children and doing much of the domestic work instead of her sister-in-law. She did this without complaining in order to avoid problems with the brother or his wife.

I cook, I clean in my brother's house and take care of the children in order to help them accept me in the house and to avoid problems. (In-depth individual interview with Sandra)

Lara, Nazaneen and Nasreen also told their stories of being forced to support their sisters-in-law and do the household chores. The divorced women would obey their brothers when they asked them to help their wives, always to avoid conflict with the brothers. Nazaneen lived in the family home with her father, mother and sisters-in-law. Her brothers were always asking her to help her sisters-in-law; she was doing their tasks like taking care of the children and helping with the household chores. She mentioned that she was obeying her brothers to avoid causing problems.

### **7.3.1.2.3 Divorced Sisters Are Not Allowed to Marry Again**

In some cases, brothers did not let their divorced sisters marry again, like in the cases of Sewa, Sakar, Nazaneen, Daliya and Sandra. Sandra revealed that her brothers are still preventing Sandra's second marriage. She stated:

Many people came to ask me to marry their sons; I wanted to marry to get far from them, especially from my elder brother and his wife who I am living with in their house, but my brothers did not accept that. (In-depth individual interview with Sandra)

Some of the respondents explained that their brothers were refusing to allow a second marriage because the brothers were afraid that if their divorced sister got divorced again, this would confirm that the sister was the cause of the divorce, which would mean that she is a bad woman and this would in turn reflect negatively on the family. The other reason that was mentioned by the respondents is the following: When a man asks a divorced woman to marry him, this is supposedly because she is sexually experienced. He will marry her for a few months and then divorce her and she will return to the family again. Another reason that the respondents mentioned was due to their children who live with them, like in the cases of Sakar and Sewa. They said that despite many men asking to marry them, the brothers refused, because they considered it a shameful event if his sister agreed or wanted to marry again. They believe since she is the mother of many children that it would be better for her to stay with her children and raise them alone.

### **7.3.1.2.4 Brothers Who Support Their Divorced Sisters**

A few respondents said that their brothers were supporting and standing up for them, like Hana, Bayan, Nask and Kani. Hana mentioned that her brothers are always around her and supporting her. She mentioned that even during her request for divorce they were standing up for her and taking her to the court, trying to take care of her son and buying toys for him so that he would not feel sad. They continue their efforts to support her after the divorce too, by visiting her and asking her what she needs. Bayan also said that her brother is always talking to her and asking her to forget the memories that make her feel sad. Kani mentioned that her brothers were younger than

her and never said painful things to her or hurt her or tried to control her life. Nask mentioned that her eldest brother was supporting her before her divorce. He picked her up and took her to their family's house when she was asking for help. He even encouraged her to ask for divorce. Once, when he saw Nask's face blue with bruises from her husband's beating, he told her, "come with me to our father's house, your husband is not human, he is an animal. I know what I will say to him, come with me now." After her divorce her brother has never forbid her to go out or to go back to school.

### **7.3.2 Female Members of the Family: The Role of Mothers and Sisters**

#### **7.3.2.1 The Role of Mothers**

The role of the mother was different in every case. Some of them supported their daughters before, during and after the divorce, others did not.

As respondents clarified, mothers play a very influential role in the raising of their daughters and preparing them to be wives and mothers. Respondents referred to the proverb, "how the mother is should be the daughter." Mothers raise their daughters to be like them, and this means they expect them to bear their marital difficulties just like their mothers did. Mothers do not expect their daughters to do things differently, especially if the daughters ask for divorce; mothers do not easily accept this. As some respondents explained, getting a divorce would mean that their mothers did not raise their daughter well enough to take on the responsibility of building a family and raising children. In other words, the daughter should have been raised to bear extreme hardship. In addition to that, they are concerned about the social stigma of a woman living without a man or a family. Therefore, the daughter's lifestyle and behaviour are seen to represent especially the mother and the family, and to influence particularly the mother's reputation. Some of the respondents mentioned the famous words in the Kurdish community, "Ay rahmat law sherae ka xwardwta," which means 'respect to the mother who raised this patient woman.' This saying is usually referred to by people when they think a woman should tolerate her husband's bad behavior and problems.



### 7.3.2.1.1 “Hard Mothers”

Lara’s mother expressed her anger when Lara got divorced, saying that all her efforts to raise Lara as a mother and wife were without success. Her mother treated her differently from the day that she got divorced.

A few respondents like Lara, Shanaz and Sandra all had the same experiences with their mothers and referred to their mothers as “hard mothers” in this way. Lara stated,

Following the divorce I returned and arrived at the house. I greeted them, my brothers were at home but they did not answer me. My mother was so angry with me, I kissed and hugged my mother but she did not want it.[...] Since then, my mother became hard with me. She was insulting me and saying that I was a bad woman. [...] My mother spoke cruelly about me in front of my father and brother; she was telling them bad things about me. She was even saying bad things about me to the neighbors. I was working in the house, cleaning the house, but she just insulted me and she told my brothers bad things about me and made them beat me. (In-depth individual interview with Lara)

Another respondent made a similar statement in this regard. Shanaz told me how her mother also insults her and wants her to get married as soon as possible and leave the family home.

I am doing all the domestic work, washing dishes, clothes, but my mother still insults me. (Shanaz starts to cry)I feel sad when she goes to the balcony and shouts "why didn't you stay with your husband? Why don't you go and marry again?" (In-depth individual interview with Shanaz)

Sandra's mother agreed with her brother’s severe behavior towards Sandra.

Because I was a divorced woman, my elder brother did not allow me to go out and forced me to stay at home. Even my mother was agreeing with what my brother was doing toward me; my mother was not nice to me, she was insulting me. She changed and became hard after my divorce [...]. (In-depth individual interview with Sandra)

From the above statements, the women made it clear that their mothers treated them differently after their divorce, shaming them as a kind of punishment for not being what they considered good wives and mothers.

#### **7.3.2.1.2 "She Always Stands Beside Me and Helps Me"**

Some other divorced women revealed that their mothers supported them and encouraged them to continue on with their lives after the divorce. Daliya is one of those who mentioned that her mother always supported her and “stood beside” her, and always encouraged her to continue her life and not care about the gossip or whatever was upsetting her. Daliya was inspired by her mother to continue her education at the secondary school after her divorce. Daliya announced, "Only my mother is always standing beside me" (in-depth individual interview with Daliya).

Nasreen said that her mother takes care of her children and helps her raise them and supports her when she faces difficulties. Nasreen explained that she is living in her mother’s house with her mother, who helped her look for a job and go to work; Nasreen said that "My mother is taking care of my children. [...] She always stands beside me and helps me" (in-depth individual interview with Nasreen)

Kani was very young when she got divorced, just 20 years old, and mentioned that her mother was telling her not to be sad and took her out of the house for activities. Her mother encouraged her to get a job so she could forget what happened to her during her marriage. This gave her the courage to find work as a hairdresser in a salon. She was also inspired by her mother to go back to school and continue her education. Thus, she is now working and going to school to complete her secondary education in one of the night schools in Sulaimani.

Other respondents like Sakar, Hana and Sewa were also supported by their mothers in taking care of their children, or encouraging them to continue their lives and overcome the difficulties they faced.

#### **7.3.2.2 Sisters Are “Like a Backbone”**

The sisters’ role in the divorced women’s lives was almost always positive. Some of the respondents talked about their sisters’ roles in their lives. Hana stated that her sister was always supporting her, visiting her and taking care of her son. Lana, Maha, Nasreen, Sewa, Shanaz and Sakar emphasized their sisters’ positive role in their lives.

They said their sisters were “like a backbone” that supports them always. Sisters helped the divorced women by taking care of their children or going shopping with them, since they were not supposed to go alone, and supported them psychologically by talking to them about the details of their problems.

Bayan and Maha mentioned that their sisters always advise them and support them psychologically when they have problems or when they feel depressed and sad.

On the other hand, the group of divorced women living in the shelter mentioned that their sisters played a more passive role in their lives. Some of the respondents, like Lara and Sandra from the shelter, stated that their sisters did not support them, and merely obeyed their brothers’ and fathers’ decisions. Lara said this may be because they do not have any other options, or because she was living in the shelter. Lara and Sandra revealed that their sisters never visited them or asked about them or their children after they started living in the shelter.

## **Chapter Eight**

### **Divorced Women, the Law and Formal Institutions in Iraqi Kurdistan**

#### **8.0 Introduction**

This chapter focuses on the legal procedures of getting married and divorced in Iraqi Kurdistan. Whether women were married religiously or in the court made a huge difference regarding their rights when they wanted to get divorced.

The first part of the chapter focuses on the formal institutions that support women in the absence of family support. The emphasis is then on women's coping strategies for dealing with the violence they experienced, in terms of resorting to the police and offices specifically set up for combating violence against women.

Some women I interviewed sought support in institutions representing the law in order to find solutions for their problems. In this chapter, their reasons for reporting or not reporting to these institutions are discussed.

Repeated violence or threats of honor killing are seen as reasons to send women to the shelters. Shelters are formal institutions established with the efforts of the government and NGOs working to enhance women's rights in Iraqi Kurdistan. In the following, the aims and procedures for living in such institutions are presented. In addition, respondents' perceptions of life in the shelter is analyzed and discussed.

#### **8.1 Marriage and Divorce Legal Procedures**

The dimensions of getting divorced in the court in relation to a religious marriage vs. a legal court marriage are discussed next. It was revealed from the interviews that respondents who got married only religiously could not ask for divorce in the court, unlike respondents who registered their religious marriages in the court as well. Women who married only religiously without registering in court have no legal proof of the marriage. These women do not have the right to ask for (Mare/ Mahr Mu'akhar),<sup>586</sup> alimony, or child support, and can only ask for divorce through religious channels. Without legal proof of the marriage, no court divorce is possible.

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<sup>586</sup>Mahr is divided into two parts. The advance Mahr or Muqaddam is the amount of money or gold stipulated in the marriage contract and given directly to the bride after completing the contract. The

### 8.1.1 Getting Married Religiously By the Melle

Respondents explained that the marriage procedures had to be first performed by a religious man, called a Melle<sup>587</sup>, in a religious ceremony at the woman's house. Such marriages do not include any written contracts. Afterwards, they may go to the court to register their marriage legally. Some of the respondents like Sewa, Lana, Hana, Kani and Shanaz said that they were married by a Melle in their family's house, without any written paper or contract. After that, the husband and wife are supposed to go together to register their marriage legally in the civil court. However, not all respondents registered their marriages in the court; some of them were only married by the Melle. Bana, employed as a teacher, told her story: She said that she wanted to marry a good man so she did not ask the man who proposed to buy gold for her. This means that she did not ask for the Mare/Mahr Muqaddam. Her family agreed to the marriage, and she wedded by the Melle as it is the "known tradition," as she said. Bana and the groom did not go to court to register the marriage contract. When I asked her why, she said that her husband was always making up excuses and sometimes complained that she did not trust him, other times promising that they would do it later but that he was busy, etc. After two months, however, she discovered that he had another wife outside Kurdistan in Malmo, Sweden, which she described as a big surprise for her. She asked for divorce and did get divorced, but said that she could not get her Mu'akhar Mahr because she had only been married by the Melle. Nasreen married again after her first divorce; her second marriage was performed by a Melle without going to court to register the marriage or signing a legal contract. Nasreen said that after her divorce she could not ask for the Mare/Mahr Mu'akhar or alimony because she was only married religiously by the Melle.

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second type of Mahr is postponed Mahr or Mu'akhar, which is the amount of money or gold stipulated in the marriage contract and given to the bride later on in case of divorce, during the marriage, or after the husband's death, but mostly it is paid after a divorce and whatever forms of currency that were in the contract (such as gold) should be estimated and converted into money.

<sup>587</sup>Melle: is a Kurdish name for a certain type of religious man, called in Arabic Mullah. The word is sometimes used for a Muslim man or woman who received a religious education. Most of the Melle work in mosques.

### **8.1.2 Registering Marriages in The Court**

Most of the divorced women, like Lana, Sewa, Hana, Dilan, Maha, Lara, Sakar and Shanaz who were married by a Melle and had also registered their marriage legally in court, began the process of asking for a divorce through the court.

Thus, the group of women who registered their marriage in court requested and obtained the divorce in court. As they stated, they were able to negotiate their rights through the legal process. Lana, Sewa, Hana, Dilan, Sakar and Shanaz mentioned that they asked for divorce in the court through a lawyer who followed their case. The second group of women who got married by the Melle got divorced religiously and could not ask for their rights, according to their own statements.

### **8.1.3 Court Procedures Start at the Committee for Family Reconciliation**

The women interviewed reported that the court in Iraqi Kurdistan created a committee called the Committee of Family Reconciliation (Lzhnay- ashtawae- xezane). It consists of experts who deal with divorce cases and starts with the clear goal of reconciling or resolving disputes between couples. Respondents explained that the committee followed the cases of women and men who wanted to get divorced and examined the reasons behind the divorce request.

Many of the respondents gave details on the role played by the committee in the process of divorce. According to Lana, Sewa, Kani, Sakar, Maha, Dilan, Bayan, Hana, Mariam and Awen, the committee tried to focus on the problems that led to the divorce and tried to solve them. In this process, both husband and wife meet with the committee in the family court, sometimes separately and other times together. At the end of the reconciliation period, the committee has to write a report to the court that will be the main basis for the final decision. The period of reconciliation is not set, but differs from one case to another depending on the situations of the family in question. In some cases it took two to three months, such as for Bayan who has no children, and in others it took longer. Hana's process of divorce took long time because, as Hana explained, she has a son which made the decision complicated. The report by the committee had to specify who was guilty and to what degree, which then sent the report to the court to decide. Maha explained the committee's decision as follows:

The committee of reconciliation talked to both of us, and after they heard our story they discussed it and wrote a report to the court and they told me that after they heard my problem they decided that he was 60% guilty because of what he did to me: He beat me, took my gold, didn't speak with me for a long time and verbally abused me. I was considered 40% guilty because I insulted his family when they were fighting with me. (In-depth individual interview with Maha)

When the respondents were asked about the committee members, they revealed that the committee is composed of many experts who have different specializations, for example social workers, lawyers, and women's rights activists. Sewa, a divorced respondent, said:

The committee was composed of many people, social workers, a lawyer, and activists in women rights, as they introduced themselves, and they said that they were trying to help me. (In-depth individual interview with Sewa)

This agrees with the information mentioned by Shokhan, a lawyer working as a manager of the NGO WOLA (women's legal assistance). She explained:

The numbers of people and their specializations differ from city to city according to the population [degree of homogeneity], and their ways of thinking vary accordingly as well. In Sulaimani [the location of my fieldwork], the committee contains a social worker, a psychologist, a lawyer, and an activist in women's rights. In the cities of Hawler and Dehouk, there is a Melle, a religious man, in the committee. (Expert interview with Shokhan)<sup>588</sup>

Regarding which questions are typically asked by the committee, respondents mentioned different things, such as questions about the reasons behind the divorce request. They also asked about whether or not the husband was abusing the wife, and the reasons for the abuse from the perspectives of both parties, among other questions. Bayan stated:

In the court committee of reconciliation, the social worker asked me at the beginning if we accepted each other sexually, I mean, if we had problems concerning sex. They thought that maybe we had problems in that area. But

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<sup>588</sup> Whether a Melle is included as a member of the committee depends on whether the people in the city commonly adhere to Sharia law.

no, we did not have any problems concerning that. They asked me about our life in detail and our problems generally, and then they asked me about the reasons for the divorce and the main problem. (In-depth individual interview with Bayan)

Some of the respondents tried to find another way to get divorced, for instance through giving up some or most of their legal rights. One way this would be possible is through a divorce agreement with their husbands. Mostly, the agreements were between the family of the wife and the family of the husband. The main aim mentioned by respondents was to avoid the difficulties that women go through to get the divorce in court. This will be explained in upcoming sections.

#### **8.1.4 Women Negotiating Divorce: Divorce Agreements**

Asking for a divorce was one of the greater challenges that respondents faced. Because of the long time that divorce takes and the complicated legal procedures of the divorce, the women and their families participated in divorced agreements. This helps them to minimize the time needed by the committee and the court to make a decision. In cases of such divorce agreements, the court still has to decide, but they just accept the agreement without going back to the committee, like what happened in Lara's case when she got divorced from her first husband.

Lara was one of those women whose family contracted an agreement with her husband and his family in order to make her husband divorce her in a short period of time. The agreement was between the two families, represented by Lara's brother and her husband; each of them was accompanied by a male relative like a cousin. Lara's husband agreed to the divorce and kept his son and the gold, and Lara's family promised not to ask for any financial rights or to ask about the son. They asked Lara's husband to say in the court hearing that the reason for the divorce was a misunderstanding between him and Lara. The agreement was not written; it was only a verbal contract and it helped Lara get out of the marriage sooner. So, Lara was not allowed to see her son or even ask about him after this agreement. Lara said,

[...] following the divorce agreement the court sessions started and I went to the court with my brother and father [...]; the court sessions ended after three sessions in three months. The first one was held 9 days after submitting the petition to the court, the second one within a month of the first session, and



the third one was held a month after that. I got the divorce from my husband after only three sessions. In the court, they told the judge that I and my husband were not in agreement with each other's opinions, and could no longer live together and that we agreed to the divorce. (In-depth individual interview with Lara)

Sandra's brother also made a divorce agreement with Sandra's husband to speed up the divorce process in court. According to their agreement, she gave her husband the rights to keep the children in order to get the divorce quickly.

Asking for a divorce is an extremely difficult process, despite the fact that the Kurdistan regional government did bolster women's rights somehow by enacting many amendments to the Iraqi personal status law<sup>589</sup> as mentioned in Chapter 4. In our interview, Shokhan, lawyer and manager for the NGO WOLA, explained that according to the personal status law<sup>590</sup> in Iraqi Kurdistan, women can set the conditions of divorce just like her husband can, according to Article 3 of Law no. 15 from the 2008 amendment to the personal status law in the Kurdistan region.<sup>591</sup> The old tradition stated that men's rights in divorce were always set in the marriage contract, along with some rights for the woman, like her right to the advance or postponed Mare/Mahr. Men could divorce women whenever they wanted, but women could only ask for divorce, and only if she has strong reasons. However, according to personal status law Articles 41 and 42, the woman has the right to ask for a separation from her husband without losing her rights if she has a strong reason.<sup>592</sup>

Although the law technically supports women, some of the respondents I interviewed stated that they gave up their legal rights when they wanted to get a divorce.

Here, I divide the respondents into three groups according to what they gave up in order to get their divorce.

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<sup>589</sup>The Kurdistan regional government modified Personal Status Law no. 188 from the year 1959 with Law no.15 of 2008 in order to enhance women's rights.

<sup>590</sup>Article 3, 5<sup>th</sup> paragraph: "during the marriage contract, the wife can set the conditions to be able to divorce her husband."

<sup>591</sup>Article 3 5<sup>th</sup> paragraph: see Footnote 18 above. For more, see: Law no. 15 of the year 2008 (the amendment to Personal Status Law no. 188 from the year 1959 in Kurdistan Region, Iraq).

<sup>592</sup> This is mentioned in Chapter 4.

The first group consists of women who gave up their right to raise their children, while the second group consists of women who gave up their financial rights in terms of (Mare/Mahr), normally money and gold, or the alimony. The third group consists of respondents who gave up both of these rights to raise their children and their financial rights. These rights are mentioned clearly in the personal status law (marriage contract).

Maha is one of the women who gave up her rights to her Mahr; she gave up her Mare/Mahr that was in the form of gold to get divorced from her husband, and in order to get the divorce sooner.

Lara, the divorced mother of a five-year-old son, said that her son is living with his father; she said that she gave up her right to raise her son, along with her gold that was paid to her by her husband as an Mare/Mahr Muqaddam, and all the gifts that she had received from her relatives when she got married. She also gave up her rights to her Mu'akhar (Mare/Mahr). This was in order to get divorced easily and quickly in the court and convince her husband to divorce her, but she also explained that it was an agreement held between her family and her husband's family in order to speed up the divorce process. She explains:

My (Mare/Mahr) was 25 methqal [about 125g] of gold; with the gifts, it became 30 [150g], and the Mu'akhar (Mare/Mahr mwakhera) was about 100 [500g]. My brother said to give all the gold to my husband's family and not to ask about the (Mare/Mahr) or alimony or anything, even my son. This was in order to make my husband agree to divorce me soon. (In-depth individual interview with Lara)

Some other respondents like Sewa, Hana and Lana gave up all their rights to their husband, their houses, the furniture, their presents and Mare/Mahr Muqaddam, which was always gold that the husband bought for the wife, as well as the Mu'akhar Mahr. This was all in order to keep their children with them and to get divorced from their husbands peacefully without many problems. Asking for their rights from their husbands would have drawn out the divorce process in the court longer and the husbands would have fought to not have to pay any of what was owed to their wives, especially the alimony. This was emphasized by all the respondents, how the state deal with this is discussed in the next section.

In some cases, respondents did not want to give up their rights, but their families forced them to do so to make the divorce easier and take less time. Also, often child-

rearing rights were given up because the women's families did not want to take on the responsibility of raising the children of "strangers," as the case of Sandra.

## **8.2 Women Seeking Protection from State Institutions**

### **8.2.1 Offices for Combating Violence against Women and Family (CVAWF)**

#### **8.2.1.1 The Establishment and Procedures of CVAWF**

These offices were established according to Law no. 8 of 2011 in the KRG; many women are killed for 'honor,' as what is called 'honor killing' is in other words simply the excuse a man uses to murder a woman. Common situations include when a woman marries or loves a man and insists on marrying him even though her desire to marry goes against her family's wishes. What happens here is that the woman and the man she loves put together a plan to escape. In this situation, the family of the woman will try to find them and kill the woman or kill them together in order to 'protect the family's honor.'<sup>593</sup> Thus, these Offices for Combating Violence were established as a reaction to the violence against women, especially honor killing. The story of Duaa Khalil, the Yazidi woman who was killed by her relative because she loved a Muslim man, had a big influence on the KRG. It was widely reported nationally and internationally. In my interview with the officer and director of the department concerned with the statistics of violence against women, I realized the following:

The office was established in 2007 after the famous case of Duaa, the Yazidi girl killed by the Yazidi people themselves because she loved a Muslim man. The murder of Duaa got a huge reaction and attention around the world, and most of the TV and news stations and newspapers covered this case story. Also, the United Nations, Amnesty, Human Rights Watch and most of the international organizations followed the case and they submitted what is called a 'black report,' a negative report about the case. This report showed that women's rights in this region are not respected; it placed a lot of pressure on the KRG. It placed political pressure and it affected the KRG's image internationally, which pushed the KRG to work on improving women's situation. (Harwn, officer and director of CVAWF)

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<sup>593</sup> See Chapter 4.

When the Offices were first established, they were called the Offices for following [‘observing/watching,’ badwada chwn] Violence against Women, but then the name was changed to the Offices for Combating Violence. These offices were set up in the beginning to follow the cases that were sent to them by the police and were only to observe the women's problems; they were not investigating. As of 2013, however, the offices have started to do the whole process. This happened after the strong criticism from NGOs working in women’s rights, which observed violations of the procedure by police officers. Zakaria added that, today, the cases and the investigations are all conducted in the CVAWF offices. The Sulaimani government runs five branches of such offices. In the center there are two offices, and in areas near and around Sulaimani there are three more offices (Sed-sadaq, Dokan, and Darband Khan).

These offices are doing research and investigating the reasons for the violence and the problems that women have, and are also collecting statistics about the violence against women and everything concerning it. The office also arranges many different seminars, TV shows and discussions in offices, schools, factories, etc. to raise awareness in women about how to behave in the face of violence and who they can contact to report violence.

Harwn mentioned that some women come to these offices directly, or sometimes they are sent from police stations and hospitals, or are just collected off the street or when people complain about a man who is abusing a woman and they report this to the office. Women can come in or call the office 24/7 for any reason to ask for support. From the interviews with officers, it was revealed that they receive cases of women with different social status and backgrounds, some who are educated and others who are illiterate. They can be lecturers at universities or doctors or housewives without an education at all.

The offices provide counseling for women, men and children, and all can ask for support there. Support provided is in terms of psychological, social and legal counseling provided by experts. Critical cases are sent to the shelters after the office has investigated and the court has made its decision.

### 8.2.1.2 Women Report to The Police

It was mentioned by most of the divorced respondents during the interviews that they reported to the police when they faced violence by their fathers, mothers, brothers, other relatives or husbands.

Shanaz contacted the police station.<sup>594</sup> She was living with her brother and mother in their mother's house after her divorce. There, she faced many difficulties in the house with her brother and mother. Her mother kept asking her to leave the house and verbally abused her and was encouraging Shanaz's brother to do the same. Shanaz was eventually kicked out of the house by her mother and brother and went to her sister's house. Shanaz told her sister's family about what happened to her, and then decided to contact the police. She talked about the situation:

I went to the police center with my brother-in-law and I complained at the police station and then the police arrested my brother and then my mother but they were released on the same day after they paid the bail and then from that day on my mother and brother were afraid to throw me out. They were afraid that I would file another complaint against them. (In-depth individual interview with Shanaz)

Shanaz stated that after she complained at the police station, her mother and brother no longer threw her out of the house as they had continuously done before that. She is now still living with them in the same house. Her mother still threatens her, however; Shanaz went back to school after her divorce, and her mother once told her

I will come to your school and I will tell your teachers bad things about you and I will ask them to expel you from school. (In-depth individual interview with Shanaz)

Shanaz explained how she responded to her mothers' threats:

Then I asked my sister's husband to speak with her. My mother is afraid of my sister's husband because he told her that if she continues doing this to me he will take me to the police and they will accuse my mother and he will be

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<sup>594</sup>Police station: some of the women mentioned that they complained at the police station, but here it is important to mention that the CVAWF office and the police station were combined as one entity at the beginning of its establishment. After a period of time, they separated and each institution had its own objectives and duties.

the witness against her behavior with me. Then she was afraid and stopped.

(In-depth individual interview with Shanaz)

Nasreen told me how after her divorce she returned to her family home with her children, but was physically and verbally abused by her brother to the extent that she was driven to seek protection from CVAWF. She described about what happened:

My brother was fighting with me, insulting and beating me, though I complained at the police station against him, because the police are the only things that will make my brother think twice before beating me.

Shelan: Can you tell me what happened when you complained to the police?

Nasreen: When I complained to the police they sent me to the shelter because my life was in danger. They called up my brother and started the investigation, and they told me that my brother was not allowed to beat or insult me; the law forbids it and punishes people who do that. Also, I learned the same thing in the shelter. I learned more about the laws that support women and protect women's lives from those who want to hurt her, like beat her, insult her or kill her. My brother was put in prison for one day until he paid the bail. (In-depth individual interview with Nasreen)

Nasreen left the shelter and moved back in with her family. During the third phase of my research, I talked to her and she said that what happened to her brother played a big role in changing her brother's behavior. She emphasized that her brother tries not to beat her or insult her, but he still controls her and limits her movement. Bayan reported her husband because his beatings sent her to the hospital. He was jailed for 3 days because of this, then he paid the fine and was out again. Hana also reported her husband to the police, so her husband was shouting at her, beating her and preventing her from going out or contacting friends or going to market. Awen, who was in the shelter, also reported her husband and his family to the police because they attacked her and pushed her into a wall. She sustained injuries from that event.

### **8.2.1.3 Women Report to the CVAWF**

Most of the respondents complained to the Office for Combating Violence against Women. It is worth mentioning that most of them filed their complaints after they failed to receive support from their families or, in some cases, when the families put severe restrictions on them or made serious threats on their lives. After they came in to the police station or one of the CVAWF<sup>595</sup> offices, the women were transferred to the shelter.

For instance, Mariam said that she came to the CVAWF office and submitted a complaint against her husband. She explained that the officer started to ask her questions and advised her to first return to her house and stay with her family, but Mariam told the officer about her husband's behavior and then the officer sent her to the social worker's room to speak with her. Mariam added that the officer called up her husband, who just denied what she said. Then after the investigation she was sent to the shelter that night and the CVAWF office kept her in the shelter until her case was transferred to the family court. Mariam ultimately got divorced and is now living in the shelter. When I asked Mariam how she knew about the CVAWF office, she replied that she had heard about the office on the television and had debated with herself many times whether or not to go and how they would welcome her. She explained that she was worried about going, but in the end decided to go and ask for help.

Most of the respondents knew about the office from their friends or neighbors, or from television or radio announcements.

Awen, a divorced woman with a young son, explained that she was beaten and verbally abused many times by her husband and his family. She wanted to seek support from her family, but they were not in contact with her because they had refused her marriage to this man in the first place and she knew that they would not support her. She said that she had decided to file a complaint at the CVAWF office, which was the only place that she could go to seek support. Awen added that after she

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<sup>595</sup>The women go to either the police or the (CVAWF): They go to the CVAWF unless they have not heard about the CVAWF, in which case they go to the police and are then transferred to the CVAWF. If the women are threatened with murder or violence and their lives are in danger, they are sent to the shelter until the case can be studied by the CVAWF, which attempts to solve the problem and support and protect the women.

was beaten by her husband and he kicked her out of the house, she went to the CVAWF office with her whole body and eyes red and blue from bruises and in pain. In response to my question about how she knew about the office, she answered that this was not the first time that her husband had beaten her. Her husband was routinely beating her, and once when she had bruises on her face around her eyes and mouth, their neighbor visited her and saw what had happened. The neighbor advised her to contact the CVAWF offices. She encouraged her to complain to the office or to go to any police station to seek help. Awen mentioned that she had heard about the CVAWF and the women's shelter from the television even before her neighbor advised her to go to these offices, so when her husband beat her, she went to the CVAWF, which sent her to the shelter. She said that "the office of violence and the shelter saved my life, I was in such pain" (in-depth individual interview with Awen).

Dlnia also complained against her husband and asked for help. Her husband was abusing her, and she said that she could not bear his beatings and his infidelity, and that he loved another woman and was beating Dlnia because of that. She said that she had heard about the office but did not know the address or how to get there, but that she took a taxi and the driver knew where the CVAWF office was and he was able to take her there.

Sandra rated her experience with the Office for Combating Violence against Women as positive; Sandra said that after her uncle heard her chatting on a cell phone with a 'strange man' and exchanging love messages with him, he took her phone away from her while she was speaking on it. Sandra was living in her brother's house after her divorce, and was very afraid because she knew that her uncle would tell her brother, who had forbidden her to have a cell phone or speak with any men. She was afraid her brother would beat or kill her when he came back from work, because he was always threatening to do such things. She therefore went to ask for help from one of the offices that help women. The office first sent her to a shelter to protect her. Sandra filed a complaint against her brother, and the police arrested Sandra's brother until he promised in writing not to harm Sandra again:

[...] I was afraid of my brother, if he knew that I spoke with a strange man by phone he would beat me or kill me. I escaped before my brother came back home from work, and I went to the office that helps women. I told them that I was afraid my brother was going to beat or kill me because he forbid me to talk to men. I filed a complaint against my brother at the Office of



Combating Violence against Women and they protected me. [...] the Office of Combating Violence started their work on my case, they jailed my brother for many days. But they released him when he made a written promise that he would not harm me again. (In-depth individual interview with Sandra)

I asked Sandra how she knew about the office; she replied that she had seen a meeting with the director of CVAWF on the television, who talked about the support that these offices are offering women who are abused and he also mentioned how many offices they have and the locations of the offices.

### **8.3 Women Refuse to Report Violence to State Institutions**

It is important to mention that not all the women who experienced violence sought help or complained to state institutions like the police or women's rights offices. Eight out of the 18 women complained; all the respondents revealed that if they experienced violence from their husbands during their marriage or even from anyone in their families after their divorce, they would not complain to one of the CVAWF offices or the police but would ask the support of their families first. Respondents justified this claim with many reasons. Some of the respondents mentioned that they preferred to request support from the family and not from formal institutions like CVAWF or the police because they were not familiar with this option and did not know whether or not they would be helped there. They also explained that they did not have the courage to contact such institutions and report the abuse.

Others mentioned that they would not agree to report violence to the police or CVAWF because then the abuser would be jailed, and in the end the women would be negatively affected because the abusers were also their husbands, brothers, fathers or mothers. However, some cases have to report to the police, especially if they need to go to the hospital when they are injured. An example is the case of Bayan, who reported her experience:

[...] last time when my husband punched me in the face and injured both my eyes, at the beginning I did not want to complain to the police and I said I did not want to go to the hospital because in the hospital there is always a police officer who is following women's cases and investigating the reasons behind all the women's injuries. I was worried that if they knew, they would arrest

my husband. I did not want to complain and put my husband in prison but my eyes were so badly affected by the beating that my family made me go to the hospital. [...] when I went to the hospital and the doctors saw my eyes, they said, “even animals do not do that. Who did this and why?” They called the policeman who is always in the hospital and told me to file a complaint against whoever did that. They asked me if it was my father or brother or husband; I told them my husband was the person who did that. Then they arrested him for 3 days and he paid some money, he paid the bail. (In-depth individual interview with Bayan)

Another reason mentioned by respondents for not reporting the abuse to state institutions was because they were afraid that their husbands would take their children from them. Lana, the divorced teacher with a daughter, did not dare to complain against her husband for two reasons, one being that her husband always threatened to take her daughter if she complained to the police when he was beating, verbally abusing, intimidating and controlling her. The second reason was that her mother discouraged her from reporting her husband to the police. Her mother told her repeatedly that she should not report her husband’s abuse to the police because he was the father of her daughter. Lana’s mother told her that her daughter would never understand or forgive her mother if she put her father in jail and that it would be a shame to do that to the father of her child.

My mother [...] does not support me going to the police, she was telling me he is your daughter’s father do not do that, do not complain against him to the police, it is shameful.(In-depth individual interview with Lana)

Sewa, said that her husband was beating her but she did not want to complain to the police because he was the father of her children and she did not want him to go to jail. She said that she gave him many chances to change his behavior, but he continued to beat her. Once, she wanted to report to the police but he prevented her:

My husband was beating me but I could not complain against him to the police; it was difficult, he is the father of my children. But once he beat me so much and so hard and I was in pain and angry so I wanted to ask support from the police but he took my cellphone because I told him I would call the police. He took my cellphone until I calmed down, then he returned it to me. (In-depth individual interview with Sewa)

Nazaneen, who lives with her daughter in her family's house, said that her father and brother beat her if she does anything they forbid her to do, like when she goes out of the house. She said that once she was beaten by her brother when she went out to get her daughter from the street where she was playing with her friends in front of the door and her brother saw her. Her father supported his son's behavior when he was beating her. She said she could not report it to the police because they are her family and that if they go to jail this would be her fault and she would feel ashamed. She said this would affect her family's reputation and her daughter's future, and added that they support her financially since her divorce and if they go to jail then who will support her?

One more reason mentioned by many respondents was their lack of trust in such formal institutions as the police. According to what the respondents told, they heard that some women experienced harassment in police stations from police officers. Maha is a divorced woman who chose to ask her family for support during her marriage and even after her divorce or whenever she faced difficulties in her life. Maha explained that she cannot trust the police because of their behavior towards women who experience violence:

I do not trust so much in the law and the police because I heard from people and I read a book of [true stories], it told about how these officers in the police station are behaving with women and how these women experienced different types of violence in these centers. I will never ask the police for help or trust them. Then if I face a problem, the first step is that I will go and ask my family; my father, mother or brother. They are responsible for me, I ask them to help me; [...] I ask my family. (In-depth individual interview with Maha)

## 8.4 Difficulties Hindering the Application of the Law: Inefficient Procedures

The women faced some difficulties when they submitted reports to the police. They were often asked to bring two witnesses who were present during the violence committed against them. Daliya considered this a complicated request, because mostly when the violence occurred either no one was there or no one would come, because the couple lived alone or with the husband's family and of course none of them would agree to be a witness.

Moreover, in most cases when the women reported to the police and the men were put in detention, the cases never reached the court because most of the men paid money as a fine instead, which is allowable by law (mentioned in Chapter 4), or knew someone who worked in the government and could get them out of detention or stop the legal proceedings. Daliya said that even when the police decided to arrest her husband, they arrested him for a short period, after which his family called a relative who worked for the government and they got him released.

Once, my whole body was bloody, I swore in the court that he beat me and I took two people who saw me when I was injured, they were witnesses. They arrested my husband for a short period and then released him. I do not know, maybe someone helped him get released; he has relatives who work in the government and have authority. (In-depth individual interview with Daliya)

Lara experienced various difficulties regarding the application of the law in her situation. Lara mentioned that she and the man she loved asked the Office for Combating Violence to help them convince her family, but the office refused to intervene in her case, which prompted Lara to run away from the family's house. Lara went to the Agha's<sup>596</sup> house for protection, but the Agha refused to help her because her family belongs to a famous tribe that was in conflict with his. She then called the man she loved and he advised her to return to the Office for Combating Violence.

Some other respondents faced difficulties regarding the application of the law. Shanaz, Hana, Daliya and Maha explained that the divorce process took a long time,

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<sup>596</sup> Agha is a title of leadership in a tribe.

sometimes years, if there was no agreement between the two sides on the divorce. Maha said that her husband was refusing to divorce her, which made the divorce take an extremely long time.

Then I went to court; our case went from 2001 until 2003. In April, our case ended, the court divorced me because he did not want to divorce me but the court decided on the divorce. Because I insisted on that. (In-depth individual interview with maha)

Hana spent two years getting the divorce from her husband; she mentioned that the law was very slow, and at the end she got the divorce after she made an agreement with her husband "I always say that the law was so slow in helping me. It took two years until the court decided on the divorce." (In-depth individual interview with Hana)

In Shanaz's case, it also took a long time until she got the divorce.

I escaped from my husband's house and I asked him to divorce me; he did not want to divorce me, he refused to divorce me. The divorce took 2 years in court. (In-depth individual interview with Shanaz).

## **8.5 Husbands Manipulate the Court's Decisions**

Some of the respondents stated that even when the court decided that the husband should pay the alimony or the Mahr Mu'akhar, men sometimes did not obey the court's decision. Respondents stated that their ex-husbands were finding tricky ways to avoid following the court's decision. Sakar, mother of three, fought for her right to the Mare/Mahr Mu'akhar and the child support. The court's decision was that the husband should pay her alimony and child support. But, as Sakar mentioned, her husband showed the court that he did not earn enough money and could not pay. So, because he was not working in a formal job, like as a clerk in a government office, the court could not find any official proof of his income and could therefore only decide according to the evidence he provided. Thus, because Sakar's husband proved that he had no stable job or income, the court decided that he should pay a small amount of money every month to Sakar instead of paying the entire Mare/ Mahr Mu'akhar at once. In spite of this decision, Sakar revealed that her husband was still trying to find other ways to prove that he had a low income, but he was actually a rich man who repaired cars for a living and owned a garage for car repair. Sakar said that she tried

many times to prove the reality of her husband's income and even took the police to the garage, but they could not find out the truth.

Hana made an agreement with her husband to give up her rights to Mare/ Mahr Muqadam (the gold that her husband paid to her as Mare/Mahr Muqadam) and Mu'akhar in order to keep her son. She told me that her ex-husband insisted on not paying the alimony and child support. Hana went to the court, and said:

The court decided that he should pay me the child support and my alimony until the decision of the divorce was made by the court, but he was insisting on not paying it. He said that he would not pay it even if the court put him in prison. So I wanted to get divorced as soon as possible and not stay in the court for years, as some of my friends told me, before getting divorced. I gave up my rights to speed up the process of the divorce, because he was insisting on not divorcing me in order to not pay the child support and the Mu'akhar. That was what he wanted and then he divorced me. (In-depth individual interview with Hana)

## 8.6 The Shelter

### 8.6.1 Introduction and Background to the Shelter

This section focuses on the lives of divorced women living in shelters. With this aim, I conducted interviews first with experts who work in the shelters or at the CVAWF offices or the Office of Labor and Social Affairs in Iraqi Kurdistan, because they are a part of the women's life stories. Second, I interviewed the divorced women living in the shelters. It is important to explain shelter life with the help of both groups, because they complete the picture of women's lives in the shelters.

Shelters are established in some Middle Eastern countries like Egypt, Lebanon,<sup>597</sup> and Iraq<sup>598</sup> to provide a safe place for women who are experiencing domestic or other types of violence, as well as some cases of homeless women who were allowed to stay in the shelter by the court.<sup>599</sup>

In Iraq, most of these shelters are financed and managed by NGOs<sup>600</sup>; in Iraqi Kurdistan, shelters were initially established and directed by NGOs, but in 2013 the direction of the shelters was handed over to the KRG government and is now under the direct supervision of the Ministry of Labor and Social Affairs, mainly the Office of Combating Violence against Women,<sup>601</sup> working in cooperation with some NGOs. Therefore, the shelter is not functioning alone but rather exists in a network of

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<sup>597</sup>Said Samah, (2009): Egypt's violence against women. Study overview of services for violence against women, Report for Combating Violence against Women Project National Council for Women.; and Kvinna Foundation, (2014): Violence against women in Iraq: Report by the Kvinna Foundation, <http://www.kvinnatillkvinna.se/>

<sup>598</sup>There are two shelters in Baghdad run by the women's rights NGO OFWI (Organization of Women's Freedom in Iraq), but without government permission. For more, see: The Kvinna till Kvinna Foundation (2014). There are many other shelters in Iraqi Kurdistan, which will be discussed later in this section.

<sup>599</sup>The main aims of establishing the shelters in Iraqi Kurdistan were to offer protection and support for women experiencing several types of violence; these include varied forms of sexual violence, attempted honor killings, murder threats, kidnapping and abduction, trafficking and prostitution and various forms of domestic violence, such as physical and verbal abuse.

<sup>600</sup>NGO

<sup>601</sup> Suicidal in Sulaimaniyah women's shelter, Iraqi Kurdistan. <https://ekurd.net/mismas/articles/misc2013/12/state7619.htm>.

institutions that work to protect women, including governmental organizations and national and international NGOs.

The idea of establishing shelters for women in Iraqi Kurdistan started in 1999 with WADI,<sup>602</sup> a non-governmental organization that played a big role in establishing the first shelter, which was named “NAWA Center 1999.” After that, many other shelters were established in Iraqi Kurdistan. To give examples, there is the Asuda shelter established in 2000 and the Khanzad shelter established in 2002, each of them located in different cities of Iraqi Kurdistan.<sup>603</sup>

To come to the shelter, women have to follow some procedures. Shelters are not accessible to all women, only those who report violence at the police station or one of the CVAWF offices. These women are given permission by the court judge to stay in the shelter and should also only leave the shelter with the judge’s permission, namely when the judge decides that there is no longer any threat to the woman’s life. The main reason behind this procedure is that the shelter’s address is not disclosed to the general public. Women are to be kept safe from their families and husbands. Also, places in the shelter are limited in funding and only critical cases who are really threatened have places in the shelter, not every woman who complains about her family or husband. Thus, cases are to be scrutinized first at CVAWF or other NGOs working in women’s rights, and finally a court decision is to be made by a judge.

In 2002, the responsibility for administrating these shelters was shared by the NGOs and the government and came under the direct supervision of the Ministry of Labor and Social Affairs; however, the NGOs are still playing an important role in running the shelters.<sup>604</sup> Therefore, the shelter is not working alone but rather exists in a network of institutions that work to protect women, including governmental organizations and national and international NGOs.

At the time of my research, the NGO’s shelters were still supporting women but the name of these shelters was changed to the Women’s Protection Department as a part

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<sup>602</sup>WADI: Iraqi-German non-governmental organization.

<sup>603</sup>“In the Kurdistan Region of Iraq, there are currently three official shelters for women victims of gender-based violence.” Kvinna Foundation, (2014): Violence against women in Iraq: Report by the Kvinna Foundation, <http://www.kvinnatillkvinna.se/>

<sup>604</sup>Suicide in Sulaimaniyah women’s shelter, Iraqi Kurdistan. <https://ekurd.net/mismas/articles/misc2013/12/state7619.htm>.



of many NGOs, like Asuda. The shelters belonging to the NGO receive women who need and ask for support and follow their legal cases. In situations where these women need a safe place to live, they transfer them to the shelters run by the Ministry of Labor and Social Affairs.

In an interview with Jian, a case manager in the protection department at the NGO Asuda in Iraqi Kurdistan in 2015, she explained the mechanisms behind the cooperation between the NGOs, the shelter and CVAWF:

The shelters were established first by NGOs for protecting women who ask for protection,<sup>605</sup> and since 2013 many NGOs have signed an agreement with the Office for Combating Violence against Women and the shelter to transfer the cases that need a safe place to stay at the government's shelter, where they can get more space and better protection. (Interview with Jian, case manager at Asuda)

In an interview with Dashne, a lawyer who has a Master's degree in Criminal Law and works as an activist supporting women's rights in Iraqi Kurdistan in the shelter that I visited in 2015, she showed me a formal paper containing details about how and why the shelter was established. Dashne explained to me how the shelter was established by NGOs and later in 2002 shared the responsibility for managing these shelters with the government and came to be directed by the Ministry of Labor and Social Affairs. Later in 2013, a governmental shelter was established and all the women who needed safety and protection were transferred to the government shelter since it was considered safer.

### **8.6.2 The Aim of the Shelter**

I obtained much of the information in this section from expert interviews I conducted with officers, lawyers and social workers who are connected in one way or another to the shelter. These include Dashne, the lawyer, Sara a social worker working in the shelter, and Mzhda, the person responsible for the women's programs in the government's Office of Labor and Social Affairs.

All the experts stressed two aims of the shelter: The first is to provide a safe haven for women experiencing several types of violence; these include varied forms of sexual

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<sup>605</sup>Most respondents did not mention the term 'NGO,' instead using the term 'organization' (rekhrw, munazamat), but by this they meant an NGO.

violence, attempted honor killings, murder threats, kidnapping and abduction, trafficking and prostitution and various forms of domestic violence, such as physical and verbal abuse. Shelters are to play a role in reducing the killing of women in the name of traditions and norms, or in the name of honor. Women who are living in the shelter include divorced, unmarried and married women, any women who do not have anywhere else to go. Some of them do not have families at all. Women in the shelter I visited, according to the expert interviews, are in different age groups from different backgrounds and religions. One expert mentioned that if they stay out on the streets, they will be a victim of various sorts of violence or will be forced into prostitution, and therefore the court decides to send them to the shelter. Second, the shelter provides women with legal counseling and advice, most of which concerns Act no.8, to solve their problems. In addition to that, during their stay in the shelter they are able to learn a craft that might help them in the future when they leave. Thus, women are offered courses to learn skills like trade, haircutting, sewing, etc. that will help them later to be independent. In the shelter there are many other activities as well, to help raise women's awareness regarding their health, future careers and opportunities. The social worker emphasized that that women stay in the shelter for different lengths of time; some of them have been living in the shelter for four years or more. Others only stay for a short time, but women cannot enter or leave the shelter on their own. Among the efforts to find solutions for women who are living in the shelter, workers are engaged in contact and negotiation with families. The shelter is designed as a temporary place to protect women and they are supposed to be re-connected with their families again. The social worker and lawyer stressed that this was important in finding the best possible solution and that their lives would be enhance in the future if the families accept them back.

The shelter was successful in reuniting some women with their families, but failed in other cases. In the case of Lara, for instance, there were many attempts and conversations with her family but all of them failed. In 2016 she had been living in the shelter for four years. Not only Lara's but also Sandra's and Dlnia's family as well as Mariam's sister completely rejected the idea of accepting them back into the family.

Only Nasreen, whom I interviewed in 2015, has been accepted back to live with her family. I was informed by the social worker in 2016 that the shelter succeeded in convincing her brother and thus she returned home. Nasreen's brother went to the

police and issued a written promise not to hurt her again. After he signed it, the police agreed that she could return home.

### **8.6.3 Perceptions about Everyday Life In the Shelter**

#### **8.6.3.1 Perceptions of Divorced Women: “The Shelter Saved My Life”**

Six out of the 18 respondents I interviewed are living in the women’s shelters; these are Lara, Sandra, Awen, Dlnia, Mariam, and Nasreen who (leaved the shelter later) whose stories are all different. All six women mentioned that the shelter was the one place that protected them from the violence they experienced; in some cases, it even saved them from being killed. Mariam family was killed during the 2003 war; their houses were bombed by US warplanes. Mariam and her sister were the only survivors. Her sister got married and is living in Baghdad. Mariam got married again but after her husband physically and verbally abused her and deprived her and their daughter of money and food, she sought help from CVAWF, got divorced and the shelter is now her home.

The shelter was likewise described by Nasreen, Dlnia and Awen as the place that offered them protection and saved their lives. Dlnia and Awen were subjected to violence by their husbands and are living in the shelter to escape from this physical abuse. Their husbands have also threatened their lives. Nasreen is also lived in the shelter because she was subjected to domestic violence by her brothers. Lara, as explained in Chapter 7, is facing murder threats and has been living in the shelter since 2011. When I interviewed her in 2015, and then again during my third phase of fieldwork in 2016, her family was still threatening to kill her; therefore the only choice that she had was to live in the shelter that offered her protection.

Lara explained that she was afraid and did not trust anyone, so she went to the nearest NGO office that worked for women’s rights. The NGO belonged to the PUK (Patriotic Union of Kurdistan) and was connected to the Office for Combating Violence, so they decided to transfer her to CVAWF and from there she was sent to the shelter. In her words, “The shelter saved my life, and protected me [...]” (individual in-depth interview with Lara).

### **8.6.3.2 Perceptions of Divorced Women: “The Shelter Is Like a Prison”**

Despite the fact that the shelter saved their lives, many of them still did not want to stay there. The majority of respondents in the shelter described their life there as difficult. Women described the shelter as a crowded place, since the number of women living there is much greater than the space provided to support them comfortably. Even though some of them are used to living in extended families with a large number of people in one house, in the shelter they are living together with strangers in a small enclosed place, according to their descriptions. The second reason mentioned by respondents for their unhappiness in the shelter has to do with the strict rules and regulations. For example, they are not allowed to move around in the area or to come down from their rooms any time they want, but only during specific times of the day. Many women describe the shelter as a prison. Another reason mentioned for their discomfort was that the activities inside the shelter are very few and they have to live with other women who worked in prostitution or who have children. Sara a social worker in the shelter, explained her perspective:

Even though the shelter is a place that offers protection for women, we still have difficulties regarding organizing the women and grouping them according to their problems. For instance, we have young unmarried women in the same space with women who have worked in prostitution. This can be dangerous because sometimes these women who work in prostitution are still connected to prostitution rings and try to encourage other broken and hopeless women to work with them or contact them when they leave the shelter. Also, there are women with children living in same place with women without children. Thus, the most important difficulties are regarding those women who have children and live in the shelter; the children cannot go to school because it is too difficult to protect them. (Expert interview with Sara a social worker in the shelter)

Respondents who have children also said that it is very difficult for their children to live in such a tight space with strangers, and they are not allowed to go to school. Mothers are worried that their children’s future is going to be negatively affected.

Mariam lives with her daughter from her second marriage in the shelter and expressed her worries about her daughter:

[...] my daughter is six years old and she should go to school, how can I send her to school? It is not possible if I stay at the shelter. The shelter offers you protection by keeping you inside the shelter, and the children are allowed to stay with their mothers but they should not leave the shelter. This is to protect them but it also harms them. (In-depth individual interview with Mariam, 2015)

Awen, who is living in the shelter with her son who is about a year old, told me that it is difficult to live with her son in the shelter because the child needs special food and a quiet place to sleep. She explained:

I miss my home, my son needs a comfortable place to sleep, not a crowded place, and he needs special food for his age, but such food is not available here, in this crowded place my son cannot even sleep well. (In-depth individual interview with Awen, 2015)

It was also revealed from the interviews that women who are living in the shelter are frustrated and traumatized from their past experiences and therefore they sometimes act out their trauma with each other. Lara talked about what was going on there between the women, and how life was in the shelter:

Life in the shelter is not easy at all, you see women do strange things, they always argue and quarrel, they bite each other, and some are very depressed and try to commit suicide. It is a difficult life but I have no other place to go. (In-depth individual interview with Lara, 2015)

In this matter, Lara, Nasreen, Sandra, Awen and Mariam agreed that, as Nasreen put it, “[...] life is difficult here.” Nasreen also revealed that “Women are hitting each other and shouting and they broke the door of the room [...]” (in-depth individual interview with Nasreen, 2015).

I asked the women and the social worker in my interviews about how the shelter reacts in such situations. They all stressed that when the women fight, the manager of the shelter is responsible for solving the dispute; even if it happens in the middle of the night, she will come and solve the problem. Also, the social worker added that they are following a given protocol to solve the problems. If the manager is not able to solve the problem, they will call in a group consisting of the manager, a social

worker, a psychologist and the lawyer and together try to find a solution to the problem.

### **8.6.3.3 Women Dealing With Violence to Return to Their Families**

The difficult life in the shelter made some of the women want to return to their families even if they were going to be subjected to strict punishment. They were tempted to accept the restrictions and abuse in their families in order to leave the shelter. Some of them mentioned that they miss their homes. Awen is one of these women, who showed her acceptance of violence as better than living in the shelter. She explains:

[...] I do not know what to do; I want to return to my husband, to the house, because of my son, even if my husband is not a good man and beats me, or to return to my family' (my father's) house, but they want me to give my son to my husband. I cannot continue living here, it is a difficult life. (In-depth individual interview with Awen, married, 2015)

In the first phase of my field work, Awen was not divorced; her case was complicated because she was facing two choices: to return to her husband and accept the physical violence or to go to her family's house where they asked her to give up her son permanently to her husband. In the second phase of the field work, Awen had gotten divorced and returned to her family's house. She gave her son to her husband.

Nasreen also admitted that she did not want to stay at the shelter and she would accept her brother's conditions in order to return home. She states:

My brother was arrested because of me and the whole family is angry. I want to go out and search for work again. I will be patient [...]. My brother once told the social worker that he would accept me in the house again only if I obey him and do what he wants and he said he is not going to allow me to use my mobile or to go out. I do not know if he means this, he might say this so I want to go back and live in my house with my children. (In-depth individual interview with Nasreen, 2015)

The case was different with Lara, who has no choice and must stay in the shelter; she reported:

For four years I have not seen my son or anyone from my family. I have not seen my sisters or brothers, [...] my brother said that he will kill me. He said: one day she will come out,” then he will kill me. [...] The shelter helped me [...], because no one wanted me. Life in the shelter is so hard but also I have no other place. (In-depth individual interview Lara, 2015)

#### **8.6.3.4 Social Stigma of Living In the Shelter: "Woman of the Shelter"**

Most of the respondents mentioned that the shelter keeps them safe, but on the other hand living there produces other kinds of difficulties and challenges. Even if they leave the shelter they are going to be viewed as “women of the shelter.” Relatives, neighbors, and others in their community are not going to accept them easily after they come back from the shelter. Sandra told me that her brother does not accept her back in the family because she complained against him to the police and is living in the shelter now. She revealed that once when the shelter tried to speak with her brother and convince him to let Sandra return to her family’s house, he told them that Sandra is a “woman of the shelter (jin-ee- sheltera) – let her stay there.”

Nasreen is another woman who left the shelter after they negotiated her return to her family’s house. During my third phase of research, the social worker told me that Nasreen returned to her mother’s house. In that phase I again talked to Nasreen, and she confessed that she feels quite hurt when her younger brother yells at her and calls her a "woman of the shelter" or a “shelter woman." Some people seemed to have the idea that the shelter is a place of dishonor for women, or that the women who are there are threatened because of their own dishonor.

Awen told me that she lived in the shelter once more before we had talked again. After her husband and his family promised not to abuse her again, the court decided that she could return. She returned to her husband but said that her husband and his family continued their abuse towards her. Awen said that

if they insulted me and I answered back or asked why they were saying these bad words to me and quarreled with my husband’s family, they started to tell me ‘you are women of the shelter, no one knows what you did there; you are dishonorable like the dishonorable women who are living in the

shelter, therefore you are speaking and acting like them. (In-depth individual interview with Awen)



## **Chapter Nine**

### **The Situation of Divorced Women In Iraqi Kurdistan**

#### **9.0 Introduction**

Theory building is a process of going from raw data, thinking about raw data, delineating concepts to stand for raw data, then making statements of a relationship about those concepts linking them all together into a theoretical whole, and at every step along the way.<sup>606</sup>

This chapter connects the outcomes of the empirical data analysis in chapters six, seven and eight to the theoretical framework employed to explain these findings. The main aim of this chapter is to show to what extent the objectives of this research were achieved and to reconstruct the existing theories relevant to the situations of divorced women in Iraqi Kurdistan. Thus, following the constructivist grounded theory applied in this research; I was able to identify relationships between the research findings and the relevant literature and theories in addition to my own interpretation and contribution to the field. In this chapter, I locate the empirical findings of my research within the context of existing theoretical works and relevant discussions. In many of the categories constructed during the coding and categorization process, new dimensions to the existing theories and literature were discovered in the course of the research, since the case of divorced woman in Iraqi Kurdistan remains a rarely studied phenomenon to date.<sup>607</sup>

The marriage contract is analyzed thoroughly here in relationship to Pateman's ideas about the original social contract and her concept of a sexual contract. Further, the decisions to get married and divorced are treated as the main categories of interest, as well as the role of women's families in their life decisions. Women's decision processes during marriage and divorce are influenced by their family's interests and the interests of society, a system that can be described as a classical patriarchal or a fraternal patriarchal society; this is supported by many theoretical arguments deconstructing patriarchal systems. In general, a patriarchal system is structured to

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<sup>606</sup> Corbin, Juliet , Strauss, Anselm (2008): Basics of Qualitative Research: techniques and procedures for developing grounded theory. Sage publications editions. Printed in the United States of America, p.106.

<sup>607</sup> Charmaz, Kathy (2006): p.126.

encourage the subordination of women to men inside the family or marriage relationship.

Within this system, the women I interviewed followed different strategies; they sometimes negotiated or terms of agreements. Other times, they obeyed others' wishes or resigned themselves to compromise or they tried to resilience<sup>608</sup> their difficulties. To understand these behaviors in depth, I locate such strategies within the theoretical framework around bargaining and agency. I also deal with the state in this chapter, in the form of laws and infrastructure related to women's issues (women's shelters and offices for combating violence CVAWF offices), which women encounter in times of stress and insecurity. Such instances might include when a woman is beaten or otherwise abused by her husband and her family does not provide the social protection and security she requires, or when the family itself is the source of insecurity. The agency of divorced women in such situations is analyzed in this chapter.

Throughout the following analysis of divorced women's situations, laws concerning women such as the Personal Status Law are compared to the actual events taking place in women's daily lives. This comparison uncovers a significant degree of reluctance and inefficiency in the application of these.

Despite the inefficient and improperly applied laws, women were found to turn to formal institutions such as shelters and the offices of the CVAWF in times of need. The establishment of such institutions is linked to the protection and enhancement of women's rights.

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<sup>608</sup> Resilience is the ability to recover from difficulties.

## **9.1 Women's Position and Marriage In Kurdish Society**

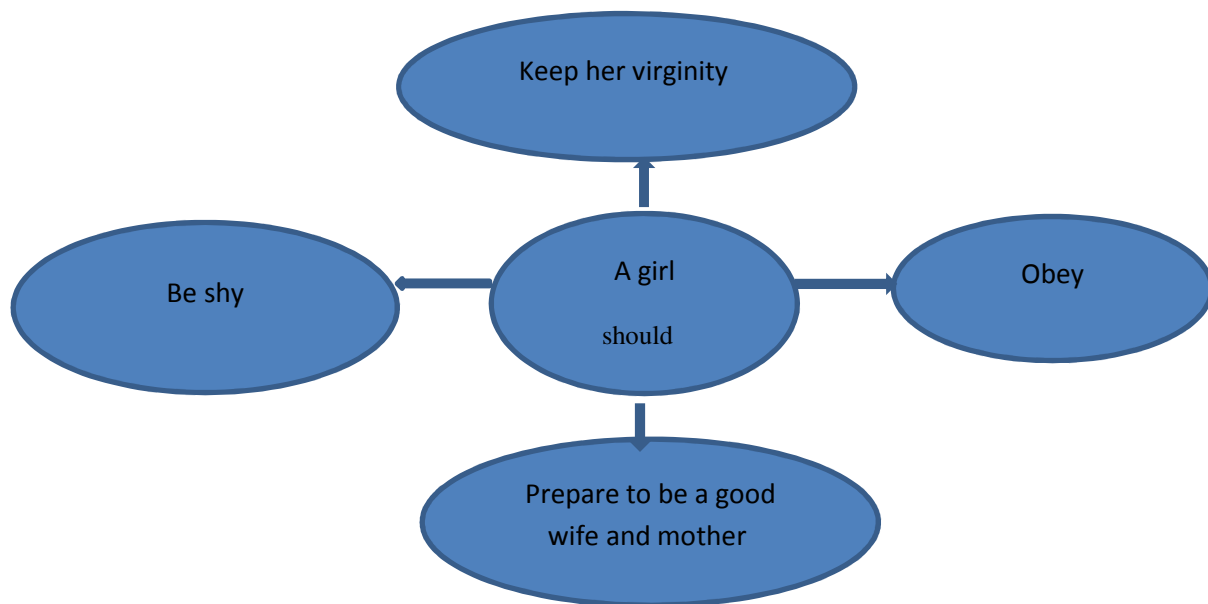
Analyzing the content of women's life stories brings up many important themes; the most important is women's position in Kurdish society. The respondents I interviewed described their position in line with terms of their marital status. In other words, the women's position in their society is comprehended as a relationship to men; as a result, women go through many status changes and phases over the course of their lives.

The categories that represent these positions are the following: Kch- kchinee- Girl, girlhood / Jîn – woman, wife / Bewazhjin- Talaq draw- divorcée / Bewa-jin – widow/ pîr jin – old woman.

Marital status is considered one of the most important dimensions of a woman's life, because it determines her position within her family and society; this classification was mentioned by the respondents themselves during the interviews. This dimension has an immense effect on women; through it, their roles are determined in their families and society. Being a girl/virgin, a married woman or an old woman was considered by the respondents as the most preferable positions for a woman in the KRG, while being divorced or widowed was explained by the respondents to be more challenging for women in terms of the treatment they receive by their families and Kurdish society as a whole.

### **9.1.1 Kch- Kchinee: Girlhood – Being a Girl**

Girls are taught from the onset of menses all the skills they will need to master in order to fulfill their future roles as mother and wife. Most of the respondents explained that girls were expected to learn to obey their male relatives, to act shy, speak in a low voice, and do whatever they were asked to do by their parents or male family members. Bana said, "My mother was always telling us not to speak in a high voice to show respect when father was at home." The other important issue brought up by the respondents was a girl's virginity, which was always a reflection of her honor. So, girls were expected to maintain their virginity and obey their family guardians in order to receive protection and family support; if they did not do this, they were considered disobedient.



Some of the respondents<sup>609</sup> were even taken out of school to learn domestic work and get married; only a few of the respondents like Hana, Lana, Bana, Sakar and Sewa completed school and university with a diploma. The girls were thus predominantly prepared for and socialized to get married. This goes along with what was mentioned by Cheryl A. Rubenberg, namely that girls are socialized by their families to learn how to practice their roles as wife and mother. This finding also agrees with the work of Sana Al-Khayyat,<sup>610</sup> where she reports that mothers teach their daughters the requisite household chores, as well as to obey, act shy, and be a good wife. When the daughter grows up and becomes a married woman herself, however, her relationship with her mother changes. After a woman gets married, her mother becomes more responsive, more openly emotional, and even closer to her married daughter. A more positive, emotional relationship thus forms as soon as the mother is assured that she has socialized a ‘decent woman.’<sup>611</sup> Shanaz, Mariam, Nask and Sakar told me that

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<sup>609</sup> It is important to note here that most of the respondents in this study came from rural areas or a family that is loyal to a tribe (tribal family).

<sup>610</sup> Al-khayyat, Sana (1990): Honor and shame: women in modern Iraq. London. Saqi books.

<sup>611</sup> Rubenberg, Cheryl A. (2001): Palestinian women: patriarchy and resistance in the west bank, Lynne Rienner Publishers. United States of America, p.79.

their mothers became closer to them after marriage, helped take care of their children and generally supported them. In contrast, Shanaz revealed that before her marriage, her mother was angry most of the time and not easy to get along with, also changing her behavior when Shanaz got divorced. (A situation discussed in more depth in chapter seven).

[...]I dropped out of school; I was in grade five. I did not pass that year, so my father and mother told me not to go to school next year and they said the school is far from our house and they told me that I do not need school. I told them the school is not far and that I could walk with Layla, our neighbor. They told me to obey and not speak. My mother started to engage me in the household chores. She told me that I should clean the house every day and told my sister to wash the dishes and that we would change the work so that one week I would wash the dishes and she would clean the house and one week my sister would; we were doing this cleaning (4)<sup>612</sup> every day. But she also asked me to help her with cooking until I learned it. My mother was watching us and checking our work until I and my sister learnt everything very well. ((laughs)) I tell you this, ((laughs)) one day I washed the dishes so quickly, and finished it soon, but after an hour there were many ants around the dishes - oh my goodness, my mother grew angry and told me that it was because I was not washing the dishes well. After that, she was always telling me, do your work in a good way, you are a girl, you should learn to do the house chores in a good way, and you should be tidy and not speak in a loud voice or run like a child. You are a big girl, you will marry soon and you should learn to be a proper girl (Kbane bash), a good girl, and be shy and obey your father and mother and you should be a good mother and a good wife.(30)<sup>613</sup> My mother was always repeating and repeating this, giving advice all the time, especially when we were sitting together preparing the food. (Individual intensive interview with Sandra)

[...] I remember that I was 8 no...no...9 years old, when my father told my mother that I should not go to school. I wanted to go to school and play with my friend during break time, I remember all that. But... but my father

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<sup>612</sup> (4) : The number in brackets indicates how long a break lasts, in seconds: here 4 seconds.

<sup>613</sup> (30) : The number in brackets indicates how long a break lasts, in seconds: here 30 seconds.

prevented me and asked me to sit at home and my mother told me that I should learn to be a (Kabane bash bm) and that a girl must learn and know how to cook and clean and take care of her little brothers and sisters. Even though my elder sister was taking care of them – she was also forced to leave school. (40) I learned how to cook, to clean the house to not speak in a loud voice, to respect and obey father and those older than me, to be nice, show respect and serve people who visit us, especially women, because for woman, I mean, my father did not allow us to welcome the men who visited us because we are women. But it was so sad for me, I still remember those days at my school. (30) Now I cannot read or write properly, my father and mother said that I don't need to learn reading and writing, it is not important for me as a girl who will marry as soon as a good man asks my family to marry me.[...]. Individual intensive interview with Nazaneen

### **9.1.2 Being a Married Woman**

According to the codes and core categories in this study, a girl in Kurdish society is socialized to get married. Women enter into the marriage contract either willingly or unwillingly in order to establish a new and different life for themselves; But how and why do they do this? The answers to this question will be explored below.

As stated by the respondents, marriage is considered one of the most important phases in a girl's life. A married woman who can fulfill her role successfully will be in a better position in society than an unmarried woman. Consequently, girls consent to marriage even if they do not actually want to get married, simply because they want to change their social status from that of an unmarried girl to a married woman. Men and women should marry within a specific age range, especially women.<sup>614</sup> Sana al-Khayyat<sup>615</sup> stated that women are expected to live with a family member. If the woman does not get married, she should live with her parents; in the case of their death then she should live with her brother or sister, meaning that she will also be living with a sister-in-law or brother-in-law.<sup>616</sup> Some of the respondents mentioned

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<sup>614</sup> Begikhani/ Gill / Hague (2010): Honor-based violence and honor-based killings in Iraqi Kurdistan and in the Kurdish Diaspora in the UK: Final report, p.25.

<sup>615</sup> Al-khayyat, Sana (1990): Honor and shame: women in modern Iraq.

<sup>616</sup> Al-khayyat, Sana (1990): Honor and shame: women in modern Iraq.

that they wanted to get married to absolutely anyone because they were afraid to have no one to live with and to later be obliged to live with their sister-in-law or brother-in-law.<sup>617</sup> Women agree to marriage for this reason, as was the case for some of the respondents (Daliya, Maha and Hana), who just wanted to have a better life socially and financially. Getting married would reduce the financial burden on their families, because entering into the marriage contract allows the responsibility for her well-being to be handed over to the husband and his family.

In spite of the above reasons, most of the respondents mentioned above did not choose willingly to enter into the marriage contract. They were either pressured or even forced by their families to follow social norms expecting them to get married. In all of the marriages of the respondents I interviewed, men and women were not equal in all aspects; this agrees with Pateman's<sup>618</sup> findings that women have to enter into the marriage contract to enter civil society and become an individual, because only through the contract can women enter civil society. "Women have to be incorporated into civil society through a contract because only the contract creates free relations and presupposes the equal standing of the parties, yet, at the same time, because women are involved, the contract must confirm patriarchal right."<sup>619</sup> According to Pateman, this runs completely against the original idea of a contract, in which equal parties enter the contract to obtain freedom and to be in a better position than before.

### **9.1.3 Marriage: Rituals and Types**

Marriage is not only the union between a man and a woman, but it is the alliance between two families, the family of the bride and the family of the groom. This also agrees with the findings of Valentine Moghadam<sup>620</sup> and Judith E. Tucker, who stated that marriage is an agreement between two families, not an agreement between two individuals. Therefore, the family of respondents organizes the marriage, and the interests of the family come first when arranging the marriage. As what happened

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<sup>617</sup> Al-khayyat, Sana (1990): Honor and shame: women in modern Iraq.

<sup>618</sup> Pateman, Carole (1988): The sexual contract. USA: Stanford University Press, p.180.

<sup>619</sup> Pateman, Carole (1988): The sexual contract. USA: Stanford University Press, p.180.

<sup>620</sup> Moghadam, Valentine (2004): Patriarchy in transition: women and the changing family in the middle east. In: journal of comparative family studies 35(2), pp. 137-162, p.141.

with some of the respondents; the girl may be forced to consent and how she feels about the marriage is simply not as important.<sup>621</sup>

The way marriage is arranged represents men's domination in Kurdish society, since an (acceptable marriage) necessitates the approval of the guardians, mainly the male members of the family, who insist on going through all the steps of an (acceptable marriage), including selecting a suitable ('good') man for the woman. The details of the ceremony are arranged by the women and the mother and the elder women of the family are included. They agree on the amount of Mahr and Muakhar Sidaq. Thus, the family decides, for example, which man is suitable for the daughter by setting criteria for a suitable man (peaweke yan koreke bash) who has a good reputation.

All the types of involuntary marriage (forced, early, exchange of women) challenge the principles of social contracts in general and run counter to the basic principles of the marriage contract in particular. Involuntary marriage is also against the Personal Status Law in Iraqi Kurdistan. According to the Personal Status Law, it is not legitimate and nobody has the right to force the act of marriage; if marriage is performed forcibly, it is considered (canceled) null and void. Furthermore, whoever forces someone (male or female) to get married is required to be sentenced to up to 3 years imprisonment. (This law is explained in detail in Chapter Four).

Another contradictory issue in all the marriage contracts I studied was the fact that most of the respondents were very young when they got married. The legal age of marriage in Iraqi Kurdistan is specified at 18 years of age, but if a person expresses his or her desire to be married at the age of 15 years of age, the court has to legitimize the marriage. According to the Personal Status Law, a judge will approve the marriage only if the eligibility and physical ability of the person in question is proven after obtaining the approval of the applicant's legal guardian. However, about half of the respondents in this research were married before they were 18 years old and without the consent of the court.

The finding of this research show that many of the respondents were involved in early marriages, forced marriages, exchange of women, and arranged marriages. This finding is in line with that of Fischer-Tahir, who investigated gender and violence in

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<sup>621</sup> Tucker, Judith E. (1993): The Arab Family in History. "Otherness" and the Study of the Family. Center for Contemporary Arab Studies. Georgetown University, p.26.



Kurdish society. According to Fischer-Tahir, these types of marriage have prevailed in Kurdish society until recently. Early marriage or marriage at a young age was a common practice in Iraqi Kurdistan, especially among women with rural or tribal backgrounds.

I would argue here that these types of marriage are only legitimized by society because such behavior is considered one of the social norms that is accepted without questioning.

What explained above is going with how Sylvia T. Walby defined the patriarchy; She stated that patriarchy is " a system of social structures and practices in which men dominate, oppress and exploit women"<sup>622</sup> Walby explained the patriarchy as a system which men is the point of power<sup>623</sup>; he continued and explained that " in this system women's labour power, women's reproduction, women's sexuality, women's mobility and property and other economic resource are under patriarchal control"<sup>624</sup> The result of the field work in this research is agrees with what emphasized by Valentine Moghadam<sup>625</sup>, Carole Pateman<sup>626</sup> and Niels Spierings<sup>627</sup> that the patriarchy is a contract between two sides together, the two sides may be man or woman or other family members and also state they together construct a gender structure.

The elder male family members (the father or older brother or other male kin, in cases where the father is not alive) play a big role in arranging these types of marriage. Therefore, I agree with Deniz Kandiyoti and Valentine Moghadam when they interpret such situations as a case of classic patriarchy. In a classic patriarchy, older

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<sup>622</sup> Walby, Sylvia T. (1990): *Theorizing patriarchy*, Blackwell publishers Ltd.: Oxford, Uk and Cambridge, USA, p.20.

<sup>623</sup> Spierings, Niels(2014): *The Influence of patriarchal norms, institutions, and household composition on women's employment in twenty eight Muslim countries*, *feminist economics* 20(4), pp. 87-112, DOI: 10.1080/13545701.2014.963136.

<sup>624</sup> Walby, Sylvia T. (1990): *Theorizing patriarchy*, p.20.

<sup>625</sup> Moghadam, Valentine (2004): *Patriarchy in transition: women and the changing family in the middle east*. In: *journal of comparative family studies* 35(2), pp 137-162, p.141.

<sup>626</sup> Pateman, Carole (1988): *The sexual contract*. USA: Stanford University Press, p.180.

<sup>627</sup> Spierings, Niels (2014): *The Influence of patriarchal norms, institutions, and household composition on women's employment in twenty eight Muslim countries*, *feminist economics* 20(4).

men have the power to rule over the entire family.<sup>628</sup> The patriarchal power comes from the extended family, which still heavily wields authority and controls the women and younger men in the family. In a classic patriarchy, women are subordinated to men and should obey men. The category (acceptable marriage) demonstrates the family's, especially the father's, role in controlling a woman's marriage. Thus, a father has the power to make decisions regarding his daughter's marriage, except when the woman's father has died, in which case her brother or uncle is given the decision-making power about her marriage. Once in the marriage, the bride is then subordinated to her in-laws as well. Kandiyoti explains: "Under the classic patriarchy, girls are given away in marriage at a very young age into households headed by their husbands' father. There, they are subordinate not only to all the men but also to the more senior women, especially their mother-in-law."<sup>629</sup>

So great is the requirement that the marriage be considered an "acceptable marriage" by a woman's superiors, that if the marriage takes place without the acceptance of both families, this could even lead to what is called 'honor killing,' where the family of the bride kills their daughter and the man she married with the intention of protecting family honor. Just as in Arab families, Kurdish families see themselves as responsible for a woman's honor: "a women's natal family retains both an interest and a say in protecting their married daughter's honor."<sup>630</sup> The concept of honor is one of the important codes that are intertwined with women and their families in Kurdish society. Most of the respondents stated that a woman's honor represents or is a symbol of her family's honor, and therefore the honor of the men in her family. A woman's father or brother is likewise considered responsible for her honor, as the woman's honor reflects on that of her family members, therefore entitling her father, brother or even uncles to kill her if she has been judged as behaving in a dishonorable manner.

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<sup>628</sup> Kandiyoti, Deniz (1988): *Bargaining with Patriarchy*, p.278; Moghadam, Valentine (2004): *Patriarchy in transition: women and the changing family in the middle east*. In: *journal of comparative family studies* 35(2), pp 137-162, p.141.

<sup>629</sup> Kandiyoti, Deniz (1988): *Bargaining with Patriarchy*, p.279.

<sup>630</sup> Kandiyoti, Deniz (1988): *Bargaining with Patriarchy*, p.279.

According to the findings of Begikhani/ Gill / Hague (2010)<sup>631</sup> women are killed if they do not preserve their families or community's honor, for instance when they fall in love with a man. In my research I identified issues regarding honor killing as well; in some of my cases, asking for the family to approve of a marriage was not enough to preserve a woman's honor. Lara, for example, explained that even when the man who loved her came to ask her family to accept him to marry their daughter, the family considered his love for her as dishonorable and threatened both the man and the woman. In some cases, the family kills both together or separately because the love between the man and woman was not deemed acceptable. The norm of honor killing is still very widespread in Kurdish society, despite the fact that there are laws preventing it (see Chapter Four). Many NGOs and GOs exist which are working to support women and men who have escaped honor killing attempts or threats.

The category around marriage and its dimensions identified in this research take on many forms. In the KRG, common marriage categories include the acceptable marriage, the exchange of one woman for another, marriage as a means of reconciliation, and marriage at an early age. Early marriage is indeed found in the classic patriarchy. Kandiyoti describes how girls are often pushed to marry at a very young age in her examination of classic patriarchy. Other types of marriage like the acceptable marriage, women in exchange for women, and marriage as a means of reconciliation are also found in the KRG, as described in this study. These findings also agree with those of Andrea Fischer-Tahir, a connection that I discuss in Chapter Three.<sup>632</sup>

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<sup>631</sup>Begikhani/ Gill / Hague (2010): Honour-based violence and honour-based killings in Iraqi Kurdistan and in the Kurdish Diaspora in the UK: Final report.

<sup>632</sup> Fischer-Tahir, Andrea (2009): Brave men pretty women: gender and symbolic violence in Iraqi Kurdish urban society. *Europaisches zentrum fur kurdische studien*, p.45.

## **9.2 Gender Contracts and the State**

### **9.2.1 Women and Contracts in Iraqi Kurdistan: (The Other Half is missing)**

I discussed previously in this thesis that the KRG passed Domestic Violence Law no. 08, which went into effect in 2011. In addition, many amendments were made to existing laws concerning women, and some institutions were established to support women. In spite of that, however, women, especially divorced women, are currently still facing different forms of violence.

A number of categories regarding laws and legal institutions in the KRG emerged through the analysis of my interviews with divorced women. I discuss these categories in light of Pateman's social-sexual contract theory, along with many other relevant theories.

#### **9.2.1.1 Women, Marriage and the Contract In Iraqi Kurdistan**

When girls/women marry, they are entering into a contract. In Iraqi Kurdistan, there are two types of marriage. The first type is the religious marriage, where women (getting married religiously by a Melle,) and the second type of marriage contract involves (registering /(getting) married at court.).

Differences are revealed in the empirical data between women who registered their marriage at court and those who were only married religiously by a Melle. It must be mentioned here that all the cases I interviewed were first married religiously by a Melle. As mentioned by most of the respondents, being married first by a Melle is considered one of the important traditions that must be followed because it legitimates the relationship between the husband and wife as Halal. This act is therefore related to Islam and society's norms. Many of the respondents first performed the religious contract and then went to the court to marry and sign their civil contract in the court, but other respondents only performed the religious contract procedures.

In cases where women were only married religiously by a Melle, (getting married religiously by Melle) the women lost their financial rights in terms of Mu'akhar Al Sadaq<sup>633</sup> or alimony when they asked for divorce. They could not file a lawsuit when

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<sup>633</sup> As mentioned by an expert working in the offices of combating violence against family and women, if the religious marriage has two witnesses, the two witnesses can act as proof of the marriage, but the law in the KRG considers this type of marriage invalid.

their husbands refused to pay the Mu'akhar Al-Sadaq or alimony because the marriage was not registered in the court. Even if the husband abused them during their marital life, they could not go to the police. This was confirmed by the respondents who only married religiously. Registering the marriage in the court is considered one of the positive changes and amendments to the law that supports women and their financial rights and enhances the rule of law in Iraqi Kurdistan.

Despite the fact that Article 2 of the Iraqi constitution declares Islam to be a fundamental source of legislation, there are some controversial issues. It appears that there is a contradiction between the constitution and legislation and the real life experiences of the women, because although the state contract is built on Islamic principles it does not take into consideration the religious marriage by a Melle. According to the law, such marriages are not even recognized or distinguished legally. Most of the respondents also got married in the court by civil contract; those who consented to the civil marriage contract have the legal right to ask for their rights after divorce or for divorce: this ritual has become common, but not ubiquitous, in the KRG. The law reads: "... All inhabitants of civil society enjoy the same standing -, and when marriage is created through a contract, we can be confident that this is the case..."<sup>634</sup>

### **9.2.1.2 Women, Divorce and The Contract In Iraqi Kurdistan**

Ending the marriage contract is one of the difficulties that women frequently face during their lifetimes. It entails changing their position from being a married woman to a divorced woman, it means putting an end to family life, and it is even more difficult when the woman has children. As Pateman stated, women can be part of the civil society by entering into a contract and becoming a married woman.<sup>635</sup> But, what happens when the women exits the contract and gets divorced? Some feminists of the nineteenth century referred to divorce as a positive step toward ending women's subjection to their husbands and as a means to escape their husbands' violence, while others viewed it negatively and were "opposed to divorce, fearing that the consequence would be to enable husbands to abandon their wives and children more

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<sup>634</sup> Pateman, Carole (1988): *The sexual contract*. USA: Stanford University Press, p.180.

<sup>635</sup> Pateman, Carole (1988): *The sexual contract*, p. 180.

readily."<sup>636</sup> Moreover, it is stated by Christine Delphy, quoted in Pateman, that "marriage and divorce can be considered as two ways of obtaining similar results: the collective attribution to women of the care of children and the collective exemption of men from the same responsibility."<sup>637</sup>

When women want to end the marriage contract, laws are to be strictly applied. The amended Personal Status Law reduced men's privileges in divorce, expanded women's rights in divorce, extended child custody to mothers, and improved inheritance rights for women as stated in Chapter Four. In fact, the Kurdistan regional government did bolster women's rights somewhat by signing many amendments to the Iraqi Personal Status Law.<sup>638</sup> According to this law<sup>639</sup> and to expert interviews conducted in Iraqi Kurdistan, women can set the conditions of divorce the same as their husbands can, according to Article 3 of Law no. 15 / 2008, the amendment to the Personal Status Law in the Kurdistan region.<sup>640</sup> This contradicts the reality of divorced women; the reality is that the situation is completely different from what is stated in the law. None of the women prefer to set the conditions of the divorce, because women are used to always seeing men in this position, and society also prefers this set-up. According to these norms, women are not allowed to get divorced until they prove to the court with a lot of evidence and witnesses that life with their husbands is dangerous or unbearable; bringing such evidence before the court can be very complicated or can lengthen the court process considerably.

One of the procedures that makes divorce complicated is the stipulation that before the divorce is presented to the court, the case has to be investigated by a committee for family reconciliation. The committee decides on each case and submits its report to the court determining whether the complaints and the evidence are enough to suggest the possibility or impossibility of the husband and wife living together; this step might take a very long time.

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<sup>636</sup> Pateman, Carole (1988): *The sexual contract*, p.184.

<sup>637</sup> Pateman, Carole (1988): *The sexual contract*, p. 184.

<sup>638</sup> The Kurdistan regional government modified the Personal Status Law no. 188 from the year 1959 by Law no. 15 of 2008 in order to enhance women's rights.

<sup>639</sup> Article 3, 5<sup>th</sup> paragraph: "during the marriage contract, the wife can set the conditions to be able to divorce her husband."

<sup>640</sup> Article 3, 5<sup>th</sup> paragraph: See footnote 3 above. For more, see: Law no. 15 of the year 2008 (the amendment to Personal Status Law no. 188 from the year 1959 in Kurdistan Region, Iraq).

Divorce from the side of men is unconditional. This matches with what was mentioned by Valentine Moghadam, namely that in the patriarchal gender contract of the Middle East such as a marriage contract, only the husband can divorce his wife without reason.<sup>641</sup>

Not having the same rights is one of the most frustrating realities mentioned by many respondents. For instance, when Sandra's husband wanted to divorce her to marry another woman, he arranged all the ceremonies to complete the second marriage. Sandra refused to allow her husband to marry the second woman, as according to law the husband cannot marry the second woman if the first wife does not agree to the marriage. To force her to accept, her husband beat her and kicked her out of the house many times. Sandra said that she was thinking of her children; her family refused to take in her children along with her if she got divorced, which would mean that she would have to give the children to her husband or to accept the husband's marriage to the second wife. In the end, Sandra's husband divorced her without any reason. This case shows that the man can divorce his wife without any reason but the women cannot get divorced or ask for divorce without providing a strong excuse to the court.

In this research, almost all the women who asked for divorce were divorced only when the men wanted to divorce them.

Thus, many women had to be engaged in divorce negotiation (divorce agreement/negotiating divorce) and had to give up their legal rights when they wanted to get a divorce. In most cases, these agreements ended in favor of the husband, since the wives had to give up their financial rights to Mu'akhar Al-Sadaq or child custody or return what they had received in terms of gold and Mahr. Even though the law (contract) was reformed to give more rights to women during the process of asking for divorce and after getting divorced, many respondents said that they gave up their rights in order to get the divorce. If the women fight for their rights and do not engage in negotiations to get the divorce quickly, they will be obligated to take the divorce to court, which, as I discussed above, takes a long time and requires the woman to submit a lot of evidence and explanations to support their divorce request. To avoid

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<sup>641</sup>Moghadam, Valentine (2004): Patriarchy in transition: women and the changing family in the Middle East. In: *Journal of comparative family studies* 35(2), pp. 137-162, p.141.

these difficulties, then, women often resign to make agreements through male kin. I align with Pateman here and claim that while the contract built a contemporary civil society, at the same time it built a new form of patriarchy, the fraternal patriarchy.<sup>642</sup>

In many cases, giving up child custody was the most difficult part of the agreement for the women, but in the end, it was necessary because their families often decided in favor of giving up child custody since the father is viewed as financially responsible for the children. The women's families could not take on the financial burden of raising the children.

Generally, in such agreements women consent to their families' wishes, mainly those of the male members of the family including the woman's father, brothers and uncles or other male relatives. The women agree to abide by whatever their male family members decide on their behalf regarding the divorce agreement. This finding agrees with Deniz Kandiyoti that the status of women in the male domination is affected by how women bargain with patriarchy. Women negotiate with the other party to find a policy that offers more space within patriarchy. Sometimes the woman or both the woman and the other party in the bargaining process compromise to get more benefits. At this point, a sense of women's agency is observed, so women and agency will be discussed in the next part.

### **9.2.2 The Rule of Law**

Laws and rights are set in place to ensure equality, protection, and security; however, many factors can hinder an efficient execution of these laws and rights. In this research, it is obvious that even though laws have been amended in the KRG in favor of women they are still not applied in an efficient way that ensures equality, protection, and security for the women they are supposed to protect. This was confirmed by my respondents' stories that I cover in chapter eight.

Factors mentioned in the literature<sup>643</sup> that could affect the rule of law include the inheritance culture, harmful traditional practices,<sup>644</sup> and the prevalence of the

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<sup>642</sup> Pateman, Carole (1988): *The sexual contract*. USA: Stanford University Press, p.3.

<sup>643</sup> Carroll, Katherine Blue (2011): *Tribal law and reconciliation in the new Iraq*, in: *The Middle East Journal* 65(1), pp. 11-29; Hassin, Ahmed (2013): *Tribes and conflict management in Iraq*, p.4; Hasso, Frances (2002): *States and women's rights: The making of postcolonial Tunisia, Algeria, and Morocco* by Mounira M. Charrad. Source: *Contemporary Sociology* 31(6), pp. 735-736.

<sup>644</sup> Todd, Lin et al. (2006): *Iraq tribal study – Al-Anbar governorate*, p. 26, 27.



customary laws, a lack of political commitment and a lack of access to justice. Moreover, religions somehow, as well as a social system guided by patriarchal beliefs, have also had an impact on the rule of law in regard to women in society.

Religion was one of the factors mentioned indirectly by the women I studied in this research in connection to their daily lives; however, it is known that Iraq's and Iraqi Kurdistan's new constitutions depend on Islam and Shari'a laws. Islam is the official religion of the state and a basic source of legislation, a situation that indeed worries many women's rights activists. The findings of this research agree with those of Brown & Romano<sup>645</sup>, and Coleman<sup>646</sup> namely that discrimination against women might be caused by the Islamic provision because the problem is how Shari'a is interpreting and by whom in issues concerning gender especially the law relating to gender is unclear.<sup>647</sup> For instance, the law regarding man rights to marry another woman.

In this research, it is revealed that the Personal Status Law in Iraqi Kurdistan contains discriminating legislation regarding divorce, for instance that men are allowed to initiate divorce whenever they want but women are only allowed in the single case where the woman fixed the condition in the marriage contract that she would be able to divorce her husband; I discuss this in chapter (8.1.4). The respondents' stories regarding the rule of law are presented in chapter (8.4) and (8.5).

This law (the Personal Status Law) forbids all forms of violence against women and all types of marriage that treat women as a passive object in marriage contracts, including early, forced and exchange types of marriages. In addition to that, the law is also clear in setting punishments for violations; however, according to cases researched in this study, all these laws still did not stop these violations and violence against women. In cases of domestic violence, for instance, the application of the law is frequently delayed, and when it is applied, the application is not sufficient<sup>648</sup> to prevent the occurrence of such problems; women are still negotiating and consenting

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<sup>645</sup>Brown, Lucy/Romano, David (2006): Women in post-Saddam Iraq: One-step forward or two steps back, in: *NWSA Journal* 18(3), pp. 51-70, p. 65.

<sup>646</sup>Coleman, Isobel (2006): Women, Islam, and the new Iraq, in: *Foreign Affairs* 85 (1), pp. 24-36, p. 24.

<sup>647</sup> Coleman, Isobel (2006): p.24.

<sup>648</sup>Adil Hamid Zebari (2013): The pulse of Middle East, KRG fails to combat violence against women in Kurdistan.

to agreements with their husbands as explained above, in spite of the existence of divorce laws.

It is clear that the existence of the current laws does not stop subjugation violence against women in Iraqi Kurdistan. As mentioned by Pateman the (contract the marriage or divorce contract) is a sexual-social contract that upholds the sex rights of males and grants them more privileges than females.

Tribal social norms also play a major role in influencing the rule of law. The evidence is growing, since forms of violence against women are spreading and are still legitimized by society - the case of Lara and Nazaneen are good examples of this. Such behavior is justified in society on the grounds that the male members of the family are protecting women from doing things that might harm themselves or their families.

The role of tribalism also emerged as an important factor in women's lives during the marriage and divorce process. Some respondents like Nazaneen, Dlnia and Lara described themselves as belonging to a tribe. In Lara's case, for instance, her belonging to a well-known tribe presented a hindrance to the implementation of the laws, Mounira Charrad also explained that the state can either eliminate the tribal alliances or allow them to play their roles, but either way they must be considered an important factor in defining personal status codes and the effects on women and gender relations.<sup>649</sup> as explained in Chapter Eight. This emphasizes what was mentioned by Bruinessen<sup>650</sup> about the role of tribalism in the KRG, but what has further come out in this study is that the law is silent towards some powerful tribes in the KRG because some political parties in the leadership role are interested in gaining more voters from these tribes during the elections and do not want to lose votes from the tribes that are members of these parties.

This understanding could be used to explain some of the findings in this research, for even though the law was reformed to give more rights to women during and after the divorce process, as the women mentioned, they still had to give up their rights to get the divorce. This is also in line with Pateman's argument that when the contract built

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<sup>649</sup>Charrad, Mounira M. (2012), Family law reforms in the Arab world: Tunisia and Morocco: Report for the United Nations Department of Economic and Social Affairs (UNDESA).; Mounira Charrad (2001): States and women's rights: the making of postcolonial Tunisia, Algeria, and Morocco. Berkeley and Los Angeles: university of California press, p.25, 34

<sup>650</sup>Bruinessen, Martin van (2002): Kurds, states and tribes, p. 3, 9.

a contemporary civil society it created, at the same time, a form of patriarchy which she calls "fraternal patriarchy" and "the law of male sex-rights."<sup>651</sup> Pateman understands the contract as "the specifically modern means of creating relationships of subordination, but because civil subordination originates in contract, it is presented as freedom."<sup>652</sup> Pateman explains that the contract presents legislation as a measure to ensure freedom for individual men and women, yet in reality these laws do not achieve freedom, but rather a level of civil subordination located in the contract itself. Men are aware that the system supports their rights over women's. The present research revealed that many husbands did not obey the decisions made by the court or deliberately and repeatedly abused their wives because they knew that the law was not going to be applied and that they would not be punished.

The reality is that the law of male sex rights is further supported by the two categories (Difficulties Hindering the Application of Law) and (Men Don't Obey the Court's Decisions). The respondents I interviewed explained many difficulties that they faced when they wanted to obtain protection by law. Examples include Sakar, Daliya, Hana, Shanaz and Maha, whose stories I present in Chapter Eight.

The law in the KRG is mostly in support of men's rights, and any laws that do help divorced women or women who face violence take a long time to have any effect at all. It is also observed that in the KRG, divorced women are struggling to get their rights after a divorce and even when they win some of these rights the men do not obey the laws. This weakens the laws and women end up a victim of their ex-husband's violence because the law does not protect them due to failed or improper implementation.

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<sup>651</sup> Pateman, Carole (1988): *The sexual contract*. USA: Stanford University Press, p.3.

<sup>652</sup> Pateman, Carole (1988): *The sexual contract*. USA: Stanford University Press, p.118.

### **9.2.3 Offices for Combating Violence against Women and Family (CVAWF) / the Shelter**

The offices for CVAWF and the shelter were established according to Law no.8 of 2011, as mentioned above. It is supposed to be a source of support for women who are suffering from violence in the private or public spheres, thus the offices (CVAWF) and the shelter play a significant role in the lives of divorced women and those suffering from violence. The CVAWF offices and the shelter were created to expand women's choices in dealing with difficulties, supporting women e.g. in filing a complaint against the perpetrators of the violence they are suffering. There is still a great effort needed on the part of the women to file a complaint against their husbands or family members, but when women are living in violence, the CVAWF offices present a good and viable option when they need protection and support. This was emphasized by most of the respondents interviewed. The category (Having no other place to go: The shelter saved my life) explains that when the women have no other place to go, the offices and the shelter can offer them protection, potentially saving their lives. They also provide assistance in negotiating with the women's families if that is an option. The CVAWF offices and the shelter follow different mechanisms to help the women to return to live in society again, though they both try to (Negotiating with women's families) in order to help women to return to their family or ensure that the women's family will not be a threat to the women's life if they leave the shelter and return to normal life in society.

Receiving help from the offices and the shelter also creates additional difficulties, however, for the women seeking help. These institutions offer the women protection but also put restrictions on their movement in order to protect them. The divorced respondents also mentioned that if they lived in the shelter for a long time this would have a negative effect on their children. The children were required to stay with their mother and not go to school or any other place for their own protection. A long stay in the shelter for working divorced women is also problematic and affects their work. So, also in the shelter women suffer restrictions and hardship, not to mention the stigmas that come with the situation. This is supported by the category (Living in the shelter is not easy: The shelter is like a prison) which shows the side of women's suffering. Additionally, (Living in the Shelter as Social Stigma: Woman of the shelter) some other women who lived in the shelter for a short time and then left to

return to their family and to their normal daily lives cared about what people called them because they had lived in the shelter; this had a bad effect on women's psychological well-being.

### **9.3 Women and the Family**

In this section, I will discuss the different roles that families play in divorced women's lives. I explain the categories that emerged from the interviews and compare them to the findings of Suad Joseph, Halim Barakat and other writers who have examined women and their families in Middle Eastern countries.

#### **9.3.1 Women and the Family before Divorce**

When women are seeking to divorce their husbands, they frequently turn first to their families of origin for support. The categories of (Women Asking Support from their Families First) and (Women's Families Avoiding Woman from getting Divorce) explain the family roles in divorced women's lives before getting divorced. Most of the respondents mentioned that they considered their family the first place to ask for support when facing difficulties in Kurdish society. They thus returned to their families when they were facing various forms of violence. Some of the respondents used their families as a means to demonstrate their disapproval of the violence they experienced from their husbands during marital life and before getting divorced, describing their families as their protectors. Bayan recounts:

"this time my husband beat me and even injured me; he harmed my eyes, he beat me with all of his strength, he pushed my head against the wall. This time I said I could not bear it anymore, I called my father and my brother came and took me to my family (my father's house/ Malee bawkm). I wanted to show him, to tell my husband that he was wrong and he should stop. (0.3) I wanted him to know that I was not alone, I had family protecting me whenever I faced harm from him to stop him; my family was always my first choice and was always around me."

This finding can be explained in relation to the work of Halim Barakat<sup>653</sup> and Suad Joseph,<sup>654</sup> who understood that the family is the institution that offers security for its

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<sup>653</sup> Barakat, Halim (1993): *The Arab World: society culture and state*, university of California press, p.98.

members and support in times of social stress. Most of the respondents mentioned how their family supported them, as presented in Chapter Seven. However, it also happens that the woman's family may try to prevent their daughter from getting divorced. The category (Women's Families Avoiding Woman from getting Divorce) shows the other side of the family's influence: Although a woman's family may offer her support and protection, they may also negatively intervene in the woman's life by trying to prevent and put restrictions on what she decides to do and pressure her to obey the family's orders. For instance, the family may refuse the woman's request for divorce and try to prevent or hinder the divorce process. Many women explained that their families rejected their divorce request in order to avoid breaking up the woman's family and to allow the children to be raised by both parents together. Also, as mentioned by the respondents, the most important reason that families will try to prevent a woman's divorce is because the divorce would negatively reflect on the woman and her family members; this can be interpreted in light of Suad Joseph's and Halim Barakat's work about the family in their research. According to Joseph and Barakat, as well as Sana Al-Khayyat and Rubenberg, the family typically controls its members' lives and determines what is appropriate for each person. Family members are all expected to obey these orders and behave according to their traditional family codes and norms. The success and failure of each family member is judged by the family and seen as a reflection on the family as a whole.

In light of the above, it seems that the way in which the respondents described their families in this study is in line with how the family is explained by Suad Joseph, Halim Barakat and other scholars who understand it as a collective unit in which there is no place for individuals' demands. Thus, the family's interests must come first before those of its individual members.

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<sup>654</sup> Joseph, Suad (1994): Gender and family in Arab world, in: Women in the Middle East, p.195.

### **9.3.2 Women and the Family-In-Law**

The role of the family-in-law starts in the search for a ‘good’ wife for their son, as in the case of Daliya. They then take it upon themselves to ask for her hand in marriage, or for the hand of a woman selected by their son, and arrange the marriage agreement. Most of the respondents in this study moved to live with the family-in-law after the marriage ceremony ended. The respondents mentioned that they faced many challenges and difficulties with their in-laws. According to the testimonies presented in Chapter Six by the respondents, most commonly the mother-in-law, but also the sister-in-law, intervenes in the woman’s life; like the case of Nasreen, Nask and Maha, that I explained in chapter six. Typical examples include the mother-in-law trying to control her daughter-in-law by using her to do all the domestic household chores and forbidding her to go to market or buy clothes. The husbands also obey the mother, although the women are the ones who bear the brunt of these challenges and try to find different strategies to deal with them. My findings in this study are in agreement with what is found by Kandiyoti<sup>655</sup> about the mother-in-law’s power over her daughter-in-law, but another important finding is the role of sisters-in-law, which Kandiyoti did not consider. Some of the respondents in this study referred to the sister-in-law as intervening and trying to impose restrictions on her brother’s wife, so that some women described their sister-in-law as siding with the mother-in-law against the (daughter-in-law) respondents. The respondents give emphasis to the role of sister-in-law in chapter six. This finding shows that the women are not only oppressed or violated by men but they also face violence from females.

### **9.3.3 Contradictory Roles of the Family After Divorce**

After getting divorced, the respondents mentioned that they returned to their families of origin and lived in the family home. Most of the women were not allowed to live alone far from their families and without a man’s protection. Some of the divorced women who were living in the cities were not very young and received their own income and were allowed to live alone with their children in a house under the support and supervision of the family.

The main idea is that divorced women in a family are seen as needing protection and needing to live in the presence of a male guardian who can protect them. However,

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<sup>655</sup> Kandiyoti, Deniz (1988): *Bargaining with Patriarchy*, p. 279

the idea of security and protection is conflated with the desire to exercise power and control over women. This idea of families as a source of insecurity can also be found in the literature. Suad Joseph's argument is that families, as well as other institutions in the Middle Eastern world, are a source of discrimination and insecurity. Joseph calls this "the paradox of support and suppression, love and power, generosity and competition."<sup>656</sup>

This paradox of support and suppression can indeed also be found in Kurdish society and is not limited to the Arab world. The family clearly plays contradictory roles in divorced women's lives, because the same structure that helps women survive after the divorce can also limit the women's freedom and force them to follow traditional family norms.

### **9.3.4 Patterns of Family Relationships in Divorced Women's Lives**

Generally, the role of each family member during and after divorce illustrates on the one side how the patriarchy functions in Kurdish society, while on the other side it shows what strategies women employ in dealing with the limitations it imposes. A male member of the family includes the father as the main figure. When the father is absent, the older brothers have to take on the responsibility of protecting their divorced sisters.

Some divorced women in this study said that their fathers were supportive and that they provided all the help they could give, either financially or psychologically. Fewer women mentioned that their brothers supported them after their divorce. In cases where the father died or was absent and the women had no older brother, the woman's younger brothers, uncles or other male members of the extended family took on the paternal/fraternal role. Sandra was one of the respondents who moved to live with her brother after getting divorced. The power to make the decisions regarding a divorced woman's situation is divided in such a way that the father is the main figure in the decision making, followed in rank by the brothers and then the other male members of the extended family. This is in agreement with Pateman's analysis of the subject: "Women in modern society are subordinated to men as men or more centrally to men

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<sup>656</sup>Joseph, Suad (2001): Introduction, p. 8.



as fraternity."<sup>657</sup> This type of privilege in which the power in the family is given to the father, brothers, uncles and elder family members is likewise considered by Joseph to be a patriarchal privilege. In my research, however, it was revealed that in some cases even when the father was present the elder sons were making all the decisions and wielding power over their sisters in the house.<sup>658</sup> This means that in some families, sometimes the older man lost power to the younger men, as in Lara's and Shanaz' cases. The effect on the women differs when their brothers wield the power over them, since in many cases I found that the women's brothers were as abusive as their husbands. The brothers beat, insulted and controlled the movement of their sisters just like the husbands had. This fraternal controlling role was in many cases present before the woman married, but intensified after her divorce. Moreover, in these situations divorced women were expected to obey their brothers and in some cases also had to help their sisters-in-law with the domestic work and were not allowed to remarry because their brothers feared a second divorce, which would supposedly prove that their sisters were the cause of the divorce and consequently lead to them being judged by society as 'bad women.'

The role of the mother in all the stories told within the scope of this research was not stressed by respondents as much as the role of the father and brothers, since they were only involved to a minor degree in the decision making regarding their daughters' major life events such as marriage or divorce.

In cases where the mother's role was emphasized by the respondents, the mothers were sometimes supportive and other times not. Mainly, mothers were not supportive, because their daughter's divorce was viewed as a failure in how her mother raised her. Some mothers were described by their daughters as "hard mothers" because they did not accept the fact that their daughter was getting divorced and coming back to live with the family. In this case, they were unsupportive and also exercised abuse and violence towards the divorced daughter.

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<sup>657</sup>Watson, Sophie (1989): Review: The Sexual Contract by Carole Pateman, in *Feminist Review* no. 33, Palgrave Macmillan Journals, p. 106

<sup>658</sup> Joseph, Suad & Slyomovics, Susan (2001): Introduction, in: *Women and Power in the Middle East*. Pennsylvania, USA, p.2.

In contrast, sisters were always mentioned as supportive of the divorced respondents. The interviews revealed that the sister's roles in the divorced women's lives always involved caring and encouraging the divorced women.

Generally, these findings agree with what was described in the literature by Fischer-Tahir,<sup>659</sup> Joseph,<sup>660</sup> Barakat<sup>661</sup> and Ferna,<sup>662</sup> as well as other scholars, namely that the family is the core social unit in most countries in the Middle East. This was found to be the same in Iraqi Kurdistan; families played a major role in the lives of the women I interviewed. But it is also important to focus on one of the other most important findings in this study, namely that the roles a family plays in the life of a divorced woman are highly contradictory, both supporting and controlling.<sup>663</sup>

#### **9.4 Being a Divorced Woman: Challenges and Achievements**

The divorced women I interviewed considered their divorce as an achievement in their lives. Most of the women explained what they gained after their divorce, such as feeling independent, returning to school to continue their education, a return to job searching, or being able to enjoy a salary again which had been under the control of their husbands. These achievements and more are explained in Chapter Six.

However, my respondents faced many challenges following their divorce as well; these included social challenges, political challenges, and economic or financial challenges. Among the social challenges that women faced were restrictions and violence by the males in their family and in society in general. But women resorted to different strategies like bargaining, compromising or obedience, which I discuss next.

An examination of the financial challenges faced after a divorce reveals the importance of economic factors in divorced women's lives. Being a divorced woman with children and no job is extremely difficult. The government provides a very small monthly allowance to divorced women, which the women mention is better than not

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<sup>659</sup> Fischer-Tahir, Andrea (2009): Brave men pretty women: gender and symbolic violence in Iraqi Kurdish urban society. *Europaisches zentrum fur kurdische studien*, p.45.

<sup>660</sup> Joseph, Suad (1994): Gender and family in Arab world, in: *Women in the Middle East*, p. 149.

<sup>661</sup> Barakat, Halim (1993): *The Arab world: Society Culture and State*, University of California Press, p.98.

<sup>662</sup> Ferna, Elizabeth Warnock (1985): *Women and the family in the Middle East: New Voice Chance*, University of Texas Press, p. 25, 26.

<sup>663</sup> Joseph, Suad (1994), p. 201.

getting any support at all. However, the political and economic instability in the KRG has led to a decrease in the amount of money that divorced women receive from the state compared to before the instability; this worsens the situation of divorced women considerably.

Some of the divorced women who have no stable salary and stable work mentioned that they receive support from individuals (people's aid/ zakat, for instance Sadaqa,) as well as receiving support from NGOs from time to time.

There are differences between the situations of divorced women who come from cities versus those who come from rural or tribal backgrounds. The women with a rural or tribal background face more restrictions and control by their families, for example, Nazaneen, who comes from a rural area and whose family also belongs to a tribe, mentioned that she was prevented from going out of the house by her brother and father and her brother beat her once because she was outside the house<sup>664</sup>. Divorced women from urban areas, especially those from rich families or those who are employed, face fewer or even no restrictions and are also supported by their families because of the divorce.

In spite of the different challenges and insecurities that divorced women face in their daily lives, especially poor women and women from rural or tribal areas, the women's stories showed that they pursued different strategies in finding work, raising their children or going back to school that refer to a sense of agency.

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<sup>664</sup> Nazaneen's story in chapter 8.

## 9.5 Divorced Women and Agency

Kani: Being divorced obliges you to act like a divorced woman every day, you should always remember that you are divorced and not forget it.

Shelan: Can you explain what you mean by (acting divorced in everyday life), (wako talqdraw halswkawt bkaen hamo rozhek)?

Kani: Divorced women cannot move about anywhere or go to the market alone or other places alone, they are not supposed to laugh out loud, not speak with men outside the family, not even with the neighbors; they are not supposed to go out of the house often.

(in-depth individual interview with Kani)

From the above discussions, it is clear that the women experience a number of different challenging situations and complications in their lives; they are following different strategies during the challenges. The questions that are important to answer are: What does it mean to be a divorced woman? How do divorced women face challenges in their day-to-day lives? What strategies do they use? How do they exercise their agency and develop it?

The difficulties faced by women after getting divorced are due to many larger social mechanisms operating around them; one of these mechanisms is patriarchal ideologies<sup>665</sup> After getting divorced and returning to the family home, divorced women experience various limitations and restrictions on their behavior and movement by fathers, brothers and other male kin. The women then follow various strategies to deal with these challenges. Nasreen,<sup>666</sup> the divorced mother of four children, mentioned that her elder brother was restricting her movement and she was not allowed to go out alone. I remember during my second interview with her; she was accompanied by her mother to the place we met for the interview. She told me that she had to negotiate with her brother to get him to allow her to work, especially as she said she was responsible for four children and her family is poor. Nasreen said that she repeatedly tried to convince her brother to allow her to work, but most of the time he would become angry and shout and insult her. She told me that she sometimes

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<sup>665</sup> Sehlikoglu, Sertac (2017): Revisited: Muslim Women's Agency and Feminist Anthropology of the Middle East. in: *Cont Islam* 12, pp.73-92, p 82, 83.

<sup>666</sup> The first meeting with Nasreen was in the shelter.

was angry too and would cry. She said that once during her discussion with her brother she told him that she will not go alone if he allowed her to work or go to the market to buy food and clothes from time to time for the children. She told her brother that she would take her mother with her and she suggested to him that he visit her workplace from time to time. She also said that he could go with her to see the place where she wanted to work. During our interview, her brother called her mother and the brother talked to me. In the end, her bargaining worked, her brother gave her permission to work. Nasreen did not directly fight against her brother's restrictions that he placed on her movement, but found other methods involving negotiation and compromise to find a solution to her situation.<sup>667</sup> This shows a sense of agency on her part.

Maha tackled the challenges that she faced as a divorcée differently. After getting divorced, (she) like most of the divorced women I interviewed, also suffered from limitations to her movement but was later able to go to school and start working. Maha explained that when she wanted to get a job, her father did not prevent her from going out or working, but that her brother was always troubling her about it. Maha was from a poor family and needed to work, so she had the idea of working in her home as a hairdresser. This was after her divorce and before going back to school, but her brother rejected the idea initially because he was worried about people talking about his divorced sister. However, Maha told her brother that she would work at home and only accept female clients. After many lengthy discussions and negotiations, the brother agreed that Maha could work as a hairdresser in the home, and she was also even able to go back to school. At the time I interviewed her, she was no longer working at home but had a different job working as a cook in one of the social affairs offices. Though Maha had to bargain and reach a compromise with her brother, this opened the door for her to have more freedom later, all of which shows again how she deployed and expanded her sense of agency.

Most of the respondents found that their fathers and brothers set restrictions on them, but also they pursued different strategies in order to achieve their desired outcomes. By cultivating their desires, the divorced women managed these achievements

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<sup>667</sup> Kandiyoti, Deniz (1988): *Bargaining with Patriarchy*, p 275

"through a variety of mechanisms, a compliance with the normative structures within which they are embedded." <sup>668</sup>

Some other respondents experienced different constraints. Kani said that her father allowed her to return to school and even to work or go out during the day, but all that was subject to the condition that she return home early before the Maghreb, or evening prayer. Kani obeyed her father's orders, as she said this was one of society's constraints on women, especially divorced women, in order not to be called 'bad' women (Barala) by other people. Kani and some other respondents who experienced restrictions due to social norms did not bargain or resist, but rather submitted to the normative social system in order to accomplish other things. Kani and other respondents thus used obedience as a strategy to live in their society.

Some of the divorced women also faced conflict because they did not submit to the family's and the male kin's authority. They encountered extremely problematic situations and some of them were even threatened with death by their families, but still they found a strategy to cope with this: they sought support from the state. It was explained by Aitemad Muhanna that women learn from their life experiences when and how to behave in problematic situations. They learn from deprivation, constraints and the violence they suffered how and when to achieve their personal and familial objectives. Muhanna cited Lewin et al., explaining that "women, like other people, have goals and desires which go beyond their immediate situations...they might seek political power, control over another person, financial security, love, whatever. Feminine behavior then must be interpreted in relation to the goals women are moving toward; to an extent, their actions are bound to be strategically chosen." <sup>669</sup>

The stories of Lara, Sandra, Dlnia and many other women in this study who sought support from the governmental offices for combating violence CVAWF, and settled in the shelter, are a good example of the above. Lara lived in her family's house after her divorce. She wanted to get married again to a man whom she loved, but when this man asked Lara's family to marry her they refused and even threatened to kill him as well as her if he ever came back again and asked to marry her. Lara said that her

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<sup>668</sup> Shively, Kim (2014): *Entangled ethics: piety and agency in Turkey*. 14 (4). pp.462-480. Sage publication, p.465.

<sup>669</sup> Aitemad Muhanna (2013): *Agency and Gender in Gaza: Masculinity, Femininity and Family during the Second Intifada*. Ashgat. Routledge.

brothers insulted and beat her every time this man came to ask to marry her, because her brothers heard that she was in love with this man. Lara escaped from her family and asked for help from the CVAWF office. She was sent to the shelter in order to protect her life.

Sandra had the same experience when she was speaking to a man on the phone with whom she was in love; her uncle heard her and took the phone. She felt afraid of her brother and escaped to the CVAWF office and was also transferred to the shelter for her protection. In these two cases, the women did not compromise or negotiate with their male kin, but found another strategy by finding refuge (protection) in the state. It is worth mentioning here that women living in the shelter also face difficulties and various forms of restriction, but some women use the shelter to support them in negotiations with their families in order to return home.

Awen is among those respondents who sought help from the shelter. She suffered from violations and restrictions and therefore went to the office of combating violence and was later transferred to the shelter. Awen's family (her father and brothers) did not allow Awen to come back with her son to the family home after getting a divorce. They rejected her and her son as well; the shelter then negotiated with her family to get them to accept her back and, in the end, the shelter succeeded in helping her to return home but she had to give up her son to her ex-husband. Nonetheless, her agency is in escaping and using the state's power.

The stories of Lara and Sandra explain their resilience. The shelter tried many times to talk to the women's families to find a solution, but without any positive outcome. The women thus had no choice but to live in the shelter. In spite of the hard life in the shelter, which was described as being (like prison) by Sandra, she told me that she was planning to apply to work as a Kurdish fighter. This job offered a good salary, a safe place to live, and a chance for her to leave the shelter, which was important to her, because she had no one to go to and her family would not accept her back. As for Lara, she was engaged to the man she loved, but could not leave the shelter because her family was threatening to kill her. She was therefore working inside the shelter and planning to find a safe place to go and live with her new husband. The women in these two situations may have been living in crisis but were using a strategy that helped them cope with these difficulties. Thus, the resilience (in the sense of an ability to withstand) of some of the divorced women living in the shelter is an indication of agency.

The examples discussed highlight two points regarding agency: that western and feminist conceptions of agency as simply “resistance” to male dominance are limited, and don’t take into consideration the full range of ways in which women exercise their agency, nor the ways in which this agency can be deployed in different directions depending on the moment. The divorced women in this study employed different strategies including negotiation, compromise, escape, avoidance obedience, and resilience. Some of the strategies these women use might be viewed by western feminists as simply a continuation of female oppression and contrary to female autonomy and liberation. As mentioned by Mahmood and deliberated by Kim Shively, "women may readily submit to a normative system that requires feminine modesty, human blends, and obedience in ways that Westerns would not find it liberatory."<sup>670</sup> But I argue that divorced women in Iraqi Kurdistan use their agency to make space for themselves in the system, sometimes by submitting even to the normative system, at other times by bargaining with it, and at other times still by withstanding it as they cultivate their desire, work, and wait for a more conducive moment to fulfill these desires.

**My interviews with divorced women also highlighted to** me the importance of being open to the concept of agency. Talal Asad and Saba Mahmood make the point that "we should keep the meaning of agency open and allow it to emerge from within semantic and institutional networks that define and make possible particular ways of relating to people, things, and oneself."<sup>671</sup> **I agree that a more open understanding of agency can reveal a variety of forms of women’s agency in different contexts.**

A more fluid concept of agency should thus be considered in relation to the above discussion, one which not only resists, but also "finds other ways to escape from patriarchal ideologies."<sup>672</sup> The other notable thing is that my work highlights that the conception of women in the Middle East in feminist literature very much assumes that religion is a central aspect of women life, However, for my respondents, the divorced women, who are Kurdish, Muslim, Middle Eastern women, Islam did not seem to

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<sup>670</sup>Shively, Kim (2014): Entangled ethics: piety and agency in Turkey. 14 (4). pp.462-480. Sage publication.

<sup>671</sup> Mahmood, Saba (2005): Politics of Piety: The Islamic Revival and the Feminist Subject. Princeton University Press, p 34.

<sup>672</sup> Sehlkoglul, Sertac (2017): Revisited: Muslim Women's Agency and Feminist Anthropology of the Middle East. in: Cont Islam 12, pp. 73-92, p 82, 83.



factor much in either the structures that oppress them or in the exercising of their own agency. As such, I would argue that Kurdish women challenge the very assumption on which much of feminist writing on the Middle East centers. I disagree with overly focusing on religion, since this did not seem to play a big part in the discourses of my respondents. This means that the divorced women did not use any form of Islamic activity as a strategy to increase their space in society.

The discourses of the women I shared above confirm what Sertac Sehlakoglu argues, namely the fluidity of subjectivity and the fluidity of agency whereby it is "a process of interaction between the individuals and the larger social mechanisms operating on them. Patriarchal ideologies are one of those mechanisms, often taking multiple shapes and forms"<sup>673</sup> In the case of my respondents, the main mechanism they identified as oppressive is patriarchal ideologies which takes multiple forms particularly law and family. These women's agency can be found at times in resisting these structures, at others in compromising with them, or in obeying, the male power or the normative society they live in to further their interests.

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<sup>673</sup> Sehlakoglu, Sertac (2017): Revisited: Muslim Women's Agency and Feminist Anthropology of the Middle East. in: *Cont Islam* 12, pp.73-92, p 82, 83.

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## 11. Resume



## **12. Appendix**

### **12.1 Appendix no. (1): Political and Economic Stagnation in KRG**

The first reason behind this stagnation is the procrastination of the central government in the application of the special constitutional items (article 140) concerning Kurdish rights in the constitution, and the delay in the government's implementation of programs aimed at normalizing the disputed cities according to article 140 that deals with the country's disputed territories. Iraqi Kurdistan insists that these territories are part of its region, but the Iraqi government declares that they belong to Iraq proper. This includes the much disputed area of Kirkuk. The second reason is the manipulation of the budget of Iraqi Kurdistan, especially Iraq's oil revenues. The share of Iraqi Kurdistan was reduced from 18% to 8%. The third reason is that there is also a misunderstanding of the Kurdish regional government's attitudes, as the central Iraqi government has accused the KRG of aiming to separate the Kurdish region, which they fear will eventually lead to disrupting the unity of the Iraqi people. There is also the debate raised by the Iraqi Ministry of Oil about the illegality of contracts signed by the Kurdistan Regional Government with foreign companies to extract oil in the unexploited areas in Kurdistan.

In this context, the Kurdish authorities have declared that the Ministry of Oil in Baghdad is impeding the right of the Kurdish authorities to sign oil contracts, which is allowed under the constitution. The regional government has recognized that there are many problems with respect to the draft law about oil exploitation for the Kurdistan region. The KRG has also confirmed that the law is in line with the Iraqi Constitution, which recognizes the authority of the province over the federal government's law in this matter. Article 115 of the Iraqi constitution states: "All powers not stipulated in the exclusive powers of the federal government belong to the authorities of the regions and governorates that are not organized in a region. With regard to other powers shared between the federal government and the regional government, priority shall be given to the law of the regions and governorates not organized in a region in case of dispute."

## **12.2 Appendix no. (2): Introducing the Respondents**

I interviewed six divorced women in the shelter (Awen, Sandra, Mariam, Nasreen, Lara and Dlnia). Awen had a son less than a year old who was living with her in the shelter; I met her twice in the first and second phases of my field work. Sandra left her three children with her ex-husband. She was living with her brother before coming to the shelter, as her family never accepted her back in spite of repeated attempts to solve the problems. Mariam has six children from her first marriage and one daughter from her second marriage. I interviewed her in the first and second phases. Her daughter is six years old and does not go to school because for her protection she is not allowed to leave the shelter even to go to school. Nasreen is a mother of four children and was married twice. I met her three times, once in the shelter and another two times at one of the NGOs. Lara has one son who lives with her ex-husband. She got married multiple times. Her first marriage was when she was 8 years old; she was used as a means of reconciliation between her family and another family. Her second marriage was an exchange marriage, where her uncle's son loved and wanted to marry a girl so the girl's family asked for another young girl in exchange for their daughter in order to agree to the marriage. Dlnia could only read and write. I interviewed her one time in the first phase; she has no children.

Six women I met in the evening schools (Shanaz, Nask, Maha, Bayan, Daliya, Kani); Shanaz, Daliya and Bayan are divorced women who married at an early age. Shanaz and Daliya live with their mothers and brothers, Bayan with her mother and father. They all went back to school after getting divorced. Maha and Kani returned to school after the divorce and are also employed. Nask has a daughter who lives with her ex-husband; she was also in night school.

I met two women in the NGO offices (Nazaneen and Bana). Nazaneen did not receive an education and married at an early age. Altogether, she married and divorced twice and now lives with her parents and one of her children. Bana has no children and works as a teacher. She lives with her elderly parents since her divorce.;

I interviewed another four women at the family meeting center (Sewa, Sakar, Lana and Hana). Sewa is a mother of four children and is unemployed. Sakar has three children and a job. She and her children live in a separate house but near her parents' house. Hana is an educated woman with one son, working and living with her son in a

separate house near her parents' house. Lana is the mother of one child, is a teacher and lives with her mother.

### 12.2.1 Appendix no. (3): Table (1) - Information about Respondents

No.	Name	Place of meeting	Year of birth	Employment	Number of children	Education
1	Awen	Shelter	1990	Works by herself in her home cutting hair	One	Reading and writing
2	Sandra	Shelter	1985	None	Three	Reading and writing
3	Shanaz	School	1981	None	None	Studying/secondary school
4	Mariam	Shelter	1974	None	Six	Reading and writing
5	Nask	School	1983	None	One	Studying/secondary school
6	Nazaneen	NGO	1988	None	Two	Reading only
7	Maha	School	1979	Chef	None	Studying/secondary school
8	Hana	Meeting center for divorced parents	1977	Clerk	One	Educated
9	Nasreen	Shelter	1984, married at 16	Works occasionally	Four	Primary school, 5 <sup>th</sup> grade
10	Lana	Meeting center for divorced parents	1985	Teacher	One	Educated
11	Bayan	School	1987	None	None	Studying
12	Daliya	School	1989	None	None	Studying/secondary school
13	Bana	NGO	1974	Teacher	None	Educated

14	Sakar	Meeting center for divorced parents	1984	Clerk	Three	Educated
15	Lara	Shelter	1983	None	One	Reading and writing/ primary school
16	Kani	School	1994	Works in a salon	No children	Studying/secondary school
17	Sewa	Meeting center for divorced parents	1988	None	Four	Educated
18	Dlnia	Shelter	1993	None	None	Reading and writing

### 12.3 Appendix no. (4): Table (2) - Examples of the Initial Coding

Part of the interview with case no. 16	initial codes
[...] My live was so sad and so miserable with him. Oh, I lived with him seven months; seven months of miserable life.	Woman feeling sad about her marital life
He never took me to the market, he did not allow me to go anywhere or outside the house during the seven months of my marriage.	Husband preventing wife from going outside home: husband trying to control wife
<p>He was jealous, very jealous; when a man like his friend or his nephew came to visit us, he told me to put a scarf on my head and to try not to come to welcome the visitor.</p> <p>He did not buy anything for me; he told me not to wear trousers inside the house. I told him “ok, buy a dress for me, buy me only one,” but he did not buy anything for me.</p>	Husband preventing his wife from meeting men: husband trying to control wife.
He started to beat me so that I would not ask him again and would obey him.	Husband beating wife
We were living with his family in a rented house. We had a room on the second floor but we shared the food and the whole house. I was cooking, cleaning and washing clothes; my sister-in-law was not married and lived with us.	Living with the family-in-law
My mother-in-law was always following and watching me telling me to cook that and to not cook so much food, to use this dish and not use this one, ohh she was even watching my relations with my husband.	Mother-in-law intervening in daughter-in-law’s life

### **12.3.1 Appendix no. (5): Initial Codes**

**Document: Divorced women\Case 12 Ba**

**Initial Code: working as a means to independence: after divorce**

I sometimes want to work to make the situation easier and to not depend on my father who, as I told you, supports me.

**Document: Divorced women\Case 12 Ba**

**Initial Code: woman working to depend on herself: after divorce**

I work in a salon, but now I have school and I cannot work. I am doing homework and helping my mother with the cleaning. I am doing most of the things.

**Document: Divorced women\Case 12 Ba**

**Initial Code: woman asking for support/help**

I did not live with my husband for two years because he was beating me and kicking me out of the house. I was going to my family, my father's home, my father was supporting me (standing behind me) [la pshtm awasta].

**Document: Divorced women\Case 12 Ba**

**Initial Code: being a divorced woman: challenges**

But I feel sad because being divorced (beawazhn) is very difficult; when you are girl you are different, but being divorced means so much. It pushes you to act like a divorced woman, to not go out alone and many restrictions will be put upon you.

**Document: Divorced women\Case 12 Ba**

**Initial Code: restriction on moving**

My father always told me not to stay out anywhere because of the people, and to come back before Magreb. He said that people talk if you stay out anywhere at night.



**Document: Divorced women\Case 12 Ba**

**Initial Code: returning to school after divorce**

I started to go back to school and to study again after my divorce; I tried to return to studying to forget and to be strong against the problems that I face in life.

**Document: Divorced women\Case 12 Ba**

**Initial Code: family-in-law intervening in daughter-in-law's life: relationship with the family-in-law**

Even his family was not good to me. When my husband would beat me, they forced me to agree to what they wanted; they decided to tell my family that “the cupboard fell on her.” (When my father called me, it was the time when he beat me and hurt my eyes).

**Document: Divorced women\Case 12 Ba**

**Initial Code: family-in-law intervening in daughter-in-law's life: relationship with the family-in-law**

My husband's family never took a stand against their son; they never asked him, “why do you do that with this girl?” Always they blamed me.

**Document: Divorced women\Case 12 Ba**

**Initial Code: family-in-law intervening in daughter-in-law's life: relationship with family-in-law**

My sister-in-law was visiting us twice a week; she was not helping me with the work, she was not doing any work and also she and my mother-in-law were intervening in my life. They were asking “Did you have your period this month? ... Are you pregnant...? Why did you buy all these clothes?”

12.4 Appendix no. (6): Table (3) - Focused Coding, Study of Divorced Women

Table (3) Focused coding. Shelan Ali Arf, study of divorced women		
Cases	Focused coding	Interview statement
Divorced\Case B 1	Social challenges of being divorced (beawazhn)	But I feel sad, because being divorced (beawazhn) means so much [...] but being divorced is very difficult. This pushes me to act like a divorced woman, I mean not going out alone, not staying at my relatives' house. It limits your movement, also people are looking at you differently; when I tell anyone that I am divorced, they look at me and say, "why?" I say, "yes, I am divorced, my husband was so bad to me." They think that maybe you got divorced for other reasons. My father's afraid for me therefore he asked me to not go anywhere.
Divorced\Case B 1	Social challenges of being divorced (beawazhn)	I go to the market and to many places with my mother, not alone. But my father always tells me to not stay out anywhere because of the people, and to come back before Magreb. People talk if you stay out anywhere at night. He asked me not to not stay anywhere overnight.
Divorced\Case D 2	Social challenges of being divorced (beawazhn)	If anyone is divorced (bewazhn), the people talk about her.
Divorced\Case D 2	Social challenges of	It is so difficult for me to be divorced at

	being divorced (beawazhn)	this age; all my friends at school are surprised when I tell them that I am a divorced woman.
Divorced\Case D 2	Social challenges of being divorced (beawazhn)	[...] now I cannot go anywhere without my brother's permission. Before, I was telling my mother that I am going to stay late at school or I want to go to market or a friend's house, but now I have to tell my brothers and ask them to allow me to go somewhere or come back late from school.
Divorced\Case L 3	Social challenges of being divorced (beawazhn)	[...] I have a daughter; I am always worried about her. My life is difficult as a divorced woman with a daughter, it is restricted by responsibilities and problems. It is good that I am a teacher and I have my salary; this will help me to raise my daughter.
Divorced\Case M 4	Social challenges of being divorced (beawazhn)	[...] the word 'divorced' is so hard for me. My brother did not allow me to go out or to work, my father did not prevent me but my brother was fighting with me and insulting me.
Divorced\Case M 4	Social challenges of being divorced (beawazhn)	My brothers insult me and tell me "you are divorced, you should not go out."
Divorced\Case L1 5	Positive achievements after divorce	For me, I do not know what to say; I feel free because I got divorced, maybe it is better. Now I can go to the market, spend my own salary and no one will fight with me or insult or beat me [...]

Divorced\Case Ha 6	Positive achievements after divorce	[...] I am happier than before and my life is much better than before. [...] This is a better life for me; it is better than fighting every day with my husband. Every day we fought and shouted and every day I lived in fear of all of these things and of his behavior, fear of any of the things he might do. For example, I was even afraid when I was preparing a meal because if there was any small thing like I added too much salt to the meal, he would be very angry and throw the food and beat me; I am not scared now.
Divorced\Case Ma 4	Positive achievements after divorce	I am so happy to have the ability to go back to school, because my father is sick and now I am the responsible one and I have to work to help my family.
Divorced\Case Ba 4	Positive achievements after divorce	After my divorce, I started to go back to school and study again. I wanted to achieve what I could not do during my marriage or before; I wanted to have a better future [...] now I am so happy because I returned to school.

## **12.5 Appendix no. (7): Resume**



**12.6 Appendix no. (8): Picture of Interviews with Divorced Women in Different Places (Schhols, Ngos, Offices of CVAWF, AND Shelter)**





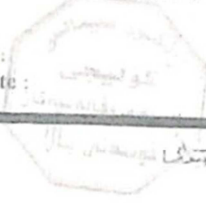








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بابه‌ت / هاوكاری زانسته‌ی

سه‌لاوی زانسته‌ی.....  
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