



Iraq

Women's Rights Under Attack

Occupation, Constitution and Fundamentalisms

عوانيت في ظل مسام قوانين

Women living under muslim laws
النساء في ظل قوانين المسلمين
Femmes sous lois musulmanes

WLUML Occasional Papers:

Specific studies and materials which, for reasons of length or style, are not included in the Dossier series.

The Occasional Papers are an occasional publication of the international solidarity network of Women Living Under Muslim Laws. Conceived as a networking tool, they aim to provide information about lives, struggles and strategies of women living in diverse Muslim communities and countries.

Information contained in the Occasional Papers do not necessarily represent the views and positions of the compilers or of the network Women Living Under Muslim Laws, unless stated.

Women's groups may freely reproduce material, however we would appreciate acknowledgements.

Regional Coordination Offices in Senegal (Africa and Middle East) and Pakistan (Asia) and are responsible for coordinating network activities in their respective regions:

Africa & Middle East Coordination Office

Groupe de Recherche sur les Femmes et les Lois au Senegal (GREFELS)
PO BOX 5330, Dakar Fann, Dakar, Senegal
Email: grefels@sentoo.sn and
codoubop@sentoo.sn

Asia Coordination Office

Shirkat Gah Women's Resource Centre
PO Box 5192, Lahore, Pakistan
Email: sgah@sgah.org.pk
Website: www.shirkatgah.org

The International Coordination Office (ICO) facilitates communication between networkers:

International Coordination Office

PO Box 28445, London, N19 5NZ, UK
Email: wluml@wluml.org
Website: www.wluml.org

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WLUML runs a very popular website in English, French and Arabic which is updated regularly with news and views, calls for action and publications. For more information please visit www.wluml.org

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What is WLUML?

Women Living Under Muslim Laws is an international solidarity network that provides information, support and a collective space for women whose lives are shaped, conditioned or governed by laws and customs said to derive from Islam.

For more than two decades WLUML has linked individual women and organisations. It now extends to more than 70 countries ranging from South Africa to Uzbekistan, Senegal to Indonesia and Brazil to France. It links:

- Women living in countries or states where Islam is the state religion, secular states with Muslim majorities as well as those from Muslim communities governed by minority religious laws;
- Women in secular states where political groups are demanding religious laws; women in migrant Muslim communities in Europe, the Americas, and around the world;
- Non-Muslim women who may have Muslim laws applied to them directly or through their children;
- Women born into Muslim communities/families who are automatically categorized as Muslim but may not define themselves as such, either because they are not believers or because they choose not to identify themselves in religious terms, preferring to prioritise other aspects of their identity such as political ideology, profession, sexual orientation or others.

Our name challenges the myth of one, homogenous 'Muslim world'. This deliberately created myth fails to reflect that: a) laws said to be Muslim vary from one context to another and, b) the laws that determine our lives are from diverse sources: religious, customary, colonial and secular. We are governed simultaneously by many different laws: laws recognised by the state (codified and uncoded) and informal laws such as customary practices which vary according to the cultural, social and political context.

How did WLUML start?

WLUML was formed in 1984 in response to three cases in Muslim countries and communities in which women were being denied rights by reference to laws said to be 'Muslim' requiring urgent action. Nine women from Algeria, Morocco, Sudan, Iran, Mauritius, Tanzania, Bangladesh and Pakistan came together and formed the Action Committee of Women Living Under Muslim Laws in support of local women's struggles. This evolved into the present network in 1986. The network is guided by Plans of Action which are reviewed periodically. For more information please see the WLUML website at www.wluml.org

What are WLUML's aims and focus?

The network aims to strengthen women's individual and collective struggles for equality and their rights, especially in Muslim contexts.

It achieves this by:

- Breaking the isolation in which women wage their struggles by creating and reinforcing linkages between women within Muslim countries and communities, and with global feminist and progressive groups;

- Sharing information and analysis that helps demystify the diverse sources of control over women's lives, and the strategies and experiences of challenging all means of control.

WLUML's current focus is on:

- Peace-building and resisting the impact of militarization
- Preserving multiple identities and exposing fundamentalisms
- Widening debate about women's bodily autonomy
- Promoting and protecting women's equality under laws

The issues of militarization, fundamentalisms, women's bodies and legal status are interlinked and feed into each other, and therefore many WLUML activities around one issue have an impact on a broader range of issues.

Our long-standing and continuing concern regarding violence against women, although closely connected with WLUML's critical issues, will be primarily focused through the lens of sexuality and the struggle for women's bodily autonomy.

How is WLUML organised?

WLUML's open structure has been designed to maximize participation of diverse and autonomous groups and individuals as well as collective decision-making. WLUML does not have formal membership and networkers are a fluid group of individuals and organisations who maintain regular two-way contact with the network.

The Programme Implementation Council (PIC) comprises 20-30 women and men involved in aspects of cross-regional networking within WLUML for a significant period of time. They take primary responsibility for developing and implementing the Plans of Action.

The International Coordination Office (ICO) has primary responsibility for facilitating coordination between networkers. Regional Coordination Offices are in Pakistan (Asia) and Senegal (Africa and Middle East) and are responsible for coordinating network activities in their respective regions. Although legally and financially autonomous, they are key components of WLUML. Based on their connections with networkers, and their knowledge and understanding of networkers' activities and contexts, the ICO and Regional Offices ensure that the relevant people in the network are meeting, strategizing, planning and acting so as to support each other and thereby strengthen local, regional and global effectiveness.

What are WLUML's principles?

WLUML focuses on laws and customs and the concrete realities of women's lives. This includes the often diverse practices and laws classified as 'Muslim' (resulting from different interpretations of religious texts and/or the political use of religion) and the effects these have on women, rather than on the religion of Islam itself.

The network consciously builds bridges across identities - within our contexts and internationally. We are especially concerned about marginalized women. This includes non-

Muslims in Muslim majority states, especially where spaces for religious minorities is rapidly dwindling; Muslim minorities facing discrimination, oppression, or racism; women whose assertions of sexuality - including but not limited to sexual orientation - are either criminalized or are socially unacceptable.

WLUML recognises that women's struggles are interconnected and complementary, and therefore has a commitment to international solidarity.

WLUML actively endorses plurality and autonomy, and consciously reflects, recognises and values a diversity of opinions. Individuals and groups linked through the network define their own particular priorities and strategies according to their context.

The personal has always played an important part in the work of WLUML, which values the solidarity and active support that the networkers extend to each other by way of personal links.

What does WLUML do?

Solidarity & Alerts

WLUML responds to, circulates and initiates international alerts for action and campaigns as requested by networking groups and allies. WLUML also provides concrete support for individual women in the form of information on their legal rights, assistance with asylum applications, and links with relevant support institutions, psychological support, etc.

Networking & Information Services

WLUML puts women in direct contact with each other to facilitate a non-hierarchical exchange of information, expertise, strategies and experience. Networking also involves documenting trends, proactively circulating information among networkers and allies, generating new analysis, and supporting networkers' participation in exchanges and international events. While WLUML prioritises the needs of networkers, it also selectively responds to requests for information from, for example, academics, activists, the media, international agencies and government institutions.

Capacity Building

WLUML consciously builds the capacity of networking groups through internships at the coordination offices, and exchanges, trainings and workshops.

Publications and Media

WLUML collects, analyses and circulates information regarding women's diverse experiences and strategies in Muslim contexts using a variety of media. It translates information into and from French, Arabic and English wherever possible. Networking groups also translate information into numerous other languages.

An active publications programme produces:

- A theme based Dossier, an occasional journal which provides information about the lives, struggles and strategies of women in various Muslim communities and countries;
- A quarterly Newsheet on women, laws and society by Shirkat Gah, WLUML Asia Regional Coordination Office;
- Occasional Papers - specific studies and materials which, for reasons of length or style, cannot be included in the Dossier series and;
- Other publications on specific issues of concern such as family laws, women's movements, initiatives and strategies, etc.

For more information and to download WLUML publications, please visit www.wluml.org/english/publications.shtml

WLUML runs a very popular website in English, French and Arabic which is updated regularly with news and views, calls for action and publications: www.wluml.org

Collective Projects

Collective projects have included topic-specific initiatives that arise out of the shared needs, interests and analysis of networkers. Networking groups and individuals are free to participate, or not, according to their needs and capacity, and collective projects have involved from three to over twenty networking groups and lasted from a few months to ten years. Projects are principally coordinated and implemented by networking groups or individual networkers in their respective countries or communities; the coordination offices provide facilitation when necessary.

Collective projects have included training sessions, workshops, research for advocacy, meetings and exchanges around specialised topics.

Previous projects include:

- Exchange programme (1988)
- Qur'anic interpretations meetings (1990) and for West African networkers (2002) and Francophone West Africa (2004)
- Women and Law in the Muslim world programme (1991-2001)
- Feminism in the Muslim World Leadership Institutes (1998 and 1999)
- Gender and displacement in Muslim contexts (1999-2002)
- Initiative for Strengthening Afghan Family Laws - INSAF (2002 - present)

Introduction

This Occasional Paper features recent activities of one of WLUML's networking organisations based in the UK. In addition, Dr Nadjie Al-Ali is an active UK networker and Sundus Abass is an active networker in Iraq.

In July 2006 Act Together, Women's Action for Iraq, hosted Sundus Abass, Director of Women in Leadership Institute, Baghdad, in London for 15 days. WLUML helped to make the visit possible, as part of various network activities in support of women in post-conflict situations particularly in Afghanistan, Iraq and Sri Lanka.

This publication is a record of some of the activities that happened during those 15 hectic days. The aim of the visit was to highlight the work that Iraqi women are doing to try to amend the new Iraqi Constitution. In particular they are trying to ensure that the pre-existing Iraqi Personal Status Law, one of the more egalitarian family laws in the Middle East, is not replaced by Article 41, which 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."* This provision will have the effect of encouraging sectarian divisions within Iraqi society.

This publication includes three talks that were given at a public meeting attended by 100 people in July 2006 at The School of Oriental and African Studies (SOAS), in London. All three speakers were talking in English, which is their second or third language. We have edited their talks slightly, but we have not changed the character of the presentations – only one of which was a written paper.

A film was made by Maysoon Pachachi, one of the members of Act Together, of a two-hour discussion in Arabic between three highly experienced Iraqi women activists – the translated transcript of the edited half hour film is also in this volume.

We hope that the other documents that we include here give an idea of the work done in that fortnight, and suggestions of actions that could be taken in the months after.

In addition to what is recorded here, Sundus had a number of meetings with British parliamentarians, the Women's National Commission, the Human Rights Committee of the Bar Association and Amnesty International hosted a meeting of NGOs. There were radio, TV and newspaper interviews in Arabic and English, and Sundus made a presentation to the Iraqi Prime Minister who was in London and later to an invited audience at the Iraqi Embassy.

As part of WLUML's on-going work on gender in post-conflict constitutions, three women networkers took part in a conference in Jordan in June 2005, 'Our Constitution Our Future: Enshrining Women's Rights in the Iraqi Constitution', organised by Women for Women International. WLUML has also supported Iraqi women's struggles through alerts for action. In 2003 WLUML worked with Afghan women on gender issues around the Afghan Constitution.

As this Occasional Paper goes to press in December 2006 the consultation period for reviews and amendments of the Iraqi Constitution continues. Due to a late starting date for the review, and a number of parliamentary holidays, the period extends well into 2007, although the cut-off date is still under discussion. Iraqi women are working hard to get Article 41 removed from the Constitution, and to have international human rights instruments and provisions incorporated in the Constitution. There is still time for solidarity action to be taken as suggested in Take Action Now! (see p 21). So please let us act together and Take Action Now!

Caroline Simpson

Caroline is a staff member of the WLUML International Coordination Office and Member of Act Together – Women's Action for Iraq.

IRAQ

Women's Rights Under Attack:

Occupation, Constitution and Islamist Extremism

17 July 2006, 18:30-21:30

SOAS, Khalili Lecture Theatre
Thornhaugh Street, London WC1 (tube: Russell Square)

Act Together: Women's Action for Iraq invites you to meet one of Iraq's leading activists for women's rights, now visiting the UK. Hear about current struggles in Iraq to amend the constitution that has reduced women's rights. Learn about the rise of Islamist extremism that is threatening women in Iraq.

A network of 37 Iraqi women's organizations need YOUR support and action NOW.

The speakers are:

Sundus Abass, Director of Women in Leadership Institute, Baghdad
"Campaigning for Women's Rights in Iraq Today"

Suad Al Jazairy, Iraqi journalist and woman's rights activist:
"The Iraqi Women's Movement, Political Parties and the Media"

Mubejel Baban, founding member of Iraqi Women's League
"Drafting the Constitution and Family Laws in 1959"

Nadje Al-Ali, Senior Lecturer in Social Anthropology, University of Exeter:
"Iraqi Women's Rights in Historical Perspective"

The event is free of charge, but we will be asking for donations.
www.acttogether.org

I will try within the given time restrictions to provide some background, both about the debate about the Constitution, and the campaign around the Constitution, as well as the more general issue of what the situation of women is now and in recent history.

We in Act Together believe that women might be the biggest losers in what has been happening, and that women have been really pushed backwards. In order to understand how terrible the situation is right now, it is important to look back. I can't really go into great detail, but you should be aware that currently, because of what is happening right now in Iraq, history is being constructed in different ways. For example, on one side you have people saying, "Well, you know, everything was bad under Saddam Hussein and, you know, women were suffering under Saddam, and now women are liberated." That is one extreme. While other people are saying, "You know, women were doing very, very well under Saddam, and now they are oppressed." Of course, the situation is much more complex.

When you look at the thirty-five years of the Baath Regime, there were different periods - one can't generalise - the situation in the 70s was very different from that in the 90s. One has to look at the impact of wars and sanctions, and one has to look at the changes in terms of the regime itself. The policies changed from the 70s, when the state was very much pushing women into the education sector, into the labour force, because of economic needs - because there was an expanding labour market - there was an expanding middle class, and women were needed as part of the labour force. During the 80s there was a shift because of the eight year long war with Iran, and women were not just needed in the public sphere, as workers, but they were also needed to produce future citizens, so there was an emphasis on women bearing children. Also in the 90s you had the shift towards more conservative policies. Because of the economic crisis, women were pushed backward. This was a very brief and superficial overview, but it's very important to not fall into the trap of saying things were either wonderful or things were bad. Of course, it was a dictatorship, and people were oppressed, but in terms of women and general civic rights, it was quite complex, and also one has to look at different phases. The 70s were not like the 90s. That was one context.

The other context is that some of the debates that we're looking at really have to be looked at in the light of the wider debate of the tensions between nationalism and feminism. What is happening right now, of course, has been happening in many other countries in the world, where, in the context of liberation struggles (previously with respect to colonialism) on one level has actually pushed women more into the public sphere, more into the political sphere. You see in places like Egypt in the 30s, or later on in Algeria and Palestine, as part of the political movement with respect to the independence struggle, women also started to get involved in the women's rights struggle. But as is happening in Iraq right now, there is always the tendency to say, "Well, you know, we should solve the bigger issues, and **then** the women's issues." I think Sundus is going to speak more about this.

Now I will focus on the Personal Status Law. You are a mixed audience, and I'm sure lots of people already know about it, but please bear with me for a few minutes, because I think there

might be some people who don't know about the debate, and what it actually means. When we speak about the personal status code, in the context of Muslim societies, it refers to the laws that regulate marriage, divorce, child custody and inheritance. And the personal status codes are based on Islamic law, the Shari'a. But people, often non-Muslim people, think that there is the book of Shari'a and that everything is written in there. It's not like that, it's more like a compilation. The personal status code is the codified law, or set of laws, which is the specific interpretation of Islamic law, which itself comes from different sources. In Iraq, as Mubejel is going to talk about in greater detail, in the late 40s, reformist politicians in Iraq started to debate the need for a codified personal status law. But it was only after the revolution in 1958 that the personal status law was codified and enshrined in the new constitution of Iraq in 1959. Iraqi women activists played an important role in assuring that a relatively progressive and egalitarian interpretation of Islamic law governing marriage, divorce, child custody and inheritance was adopted.

This debate around the personal status code is something that is a controversial issue all over the Muslim world. We have a situation in many countries where most sets of laws are actually based on civil codes, as in Egypt, for example, where all the laws are based on the civil code, **except** for the Personal Status Law. We could speak about this later - why is it that it's always laws related to the family, to husband and wife, to divorce, to children - why is it that it is **these** laws that are going to have to come from Islamic law, when all the other laws can come from the civil codes? This has been historically the case, and it's still the case.

Mubejel is going to speak about 1959; that was the first time there was actually codified law and, very importantly, a unified law - a law that applied to Sunni and Shi'a Iraqis. That is very important. Although there was obviously no independent women's movement under the Baath Regime, there was still a little bit of pluralism in the 70s, and there were some women activists who demanded radical changes to the Personal Status Law of 1959. But the regime was reluctant to be seen to be revolutionary with respect to these laws. There were some women activists who asked for changes. They wanted polygamy to be banned and they wanted no ambiguity in terms of the minimum age of marriage - because in the 1959 law there was no specific age given but it was stated that the bride should be sane and have reached puberty. In the 70s, women activists also asked for the outlawing of forced marriages, and also for a woman's right to divorce, to prohibit divorce outside of court, and a long list of other demands. The regime at the time did not radically change general relations inside the family, but they took some of the demands of the women into consideration.

At present, we have a situation where there is no rule of law, and we are having a similar debate right now. There is, for some people, a perceived problem in putting so much emphasis on the importance of the personal status law, but the fact is that in terms of these issues - divorce, child custody and inheritance - there was a unified law that applied to **all** Iraqis.

The 1959 law had been published on December 30th 1959. After the invasion of 2003, almost exactly 44 years later on December 29th, another major event occurred in the history of personal status laws in Iraq. Remember that in 2003 the US had appointed an Interim

Governing Council, which had a rotating Chair. On December 29th Aziz Hakin, the Leader of the Supreme Council for the Islamic Revolution in Iraq, also known as (SCIRI), was chairing the meeting, and half of the people were not there, as usual, and he pushed through what is known as Decree 137. Basically that decree stated that the Personal Status Law should be abolished. That created a huge outcry amongst women's organisations inside Iraq, and there was a big mobilisation, because at that time the security situation still allowed women to go out on the street, and there were students who joined them, and internationally there was a solidarity movement. That Decree was revoked that time around. However, now, in the Constitution that was drafted last year, and voted on, Article 41 basically is a continuation of Decree 137. What it states is that people should follow the family law according to their religious sect. This is basically a situation similar to Lebanon where, a), there are no safeguards against conservative, or even discriminatory interpretations of Islamic law, b), it actually fuels sectarianism.

It is very difficult, for instance, to have inter-marriages if you have a law like that, and it does not conceive of a unified Iraqi law. It is within this context that we felt that it's important to look at the kind of campaigning that women are doing. I should also state that when the Constitution was passed, there were certain issues that people could not agree on, and so the decision was taken that once a new government was formed, there would be a three month period in which certain amendments could be made. Right now we are in this three month period. There is a network of 37 women's organisations inside Iraq trying to push for amendments of this law, amongst other things. On that note, I'm going to finish, and we have a few minutes if you have any questions.

An audience member felt that culture had been ignored and there were a number of comments about the relationship between culture and written law.

Nadjé Al-Ali responded:

I have a problem with your statement because it makes culture sound a static thing - something that Iraqis have had since the Middle Ages - and that this is a tribal culture. Although I totally agree that what I have presented today has a very "myopic" focus, and in a simplified context, however we could look wider. I'm in the process of writing 'A Modern History of Iraqi Women', from the 50s to today, and one of the things that strikes me when I write about the different phases is that, yes of course, there is culture, and culture is not homogeneous in Iraq. There is urban middle class culture, there is the culture that prevails in the south, and the north - they are all cultures. That's the first thing, but also you must look especially at the influence of the state. The state and state policies had a huge impact on women in gender relations, and not just for well-educated women. And the economy plays an important role here as well. In the 70s, after the oil boom, when there was a need for women, there was a totally different prevailing culture, ideology, in terms of women in gender relations. Okay, it might not have touched everyone equally so women in remote villages might not have been touched or affected as much as urban middle class women, but still even there, there was the literacy campaign. Women were forced to go through literacy programmes, and as the economic

situation changed, as the political needs changed, and the government changed its policies, it also influenced the culture on the ground.

We also cannot understand where we are here and now if we don't look at the thirteen years of sanctions. Iraqi cultures have changed, not just because of Saddam Hussein, but also because of thirteen years of living under the most comprehensive sanction system. And women were the biggest losers again, because everywhere in the world when you have unemployment, when you have an economic crisis, women are pushed back home. Saddam, when there was a sort of crisis of legitimacy, a crisis in terms of state power, made a deal with conservative tribal powers. There were all kinds of laws, and 'honour killings', for instance, became much more possible. But that is the state intervening in culture. So I think it's a bit more complex than talking about one homogeneous 'culture'.

Dr Nadjie Al-Ali is Senior Lecturer in Social Anthropology, University of Exeter.

Good evening and thank you for your kind invitation to speak at this very interesting and important forum.

Before discussing the importance of the Personal Status Law No.188 issued in 1959 (No. 188/1959), I would like to give a brief view on the status of Iraqi women since Iraq's independence in 1921.

The Status of Iraqi Women Since Iraq's Independence in 1921

Many schools for girls were opened during the 20s but colleges were not opened until the 1930s. A number of charitable women's organizations were formed, like the Red Crescent and the Women and Children Welfare Association. In 1938 Mrs Amina AlRahal attended the first conference for women in the East held in Damascus, representing Iraqi women. She also participated in the establishment of the Women's Union in the Arab world.

When World War II ended in 1945, the movement to liberate women in the mid-40s was very noticeable, especially because many famous poets and intellectuals supported the movement such as Alrisafi, AlZahawi and Aljawahiri. Many national political parties included women's rights in their agendas. The Iraqi Women's Union was formed and it was supported by the authorities.

Many Iraqi women joined the uprising in January 1948 (*Alwathba*) to overthrow the Portsmouth Treaty (between Iraq and Britain), martial law was introduced to crush the uprising and many women were subjected to long prison sentences. Iraqi women also participated in the uprising in November 1952, when about 150 women were arrested.

In 1952 the first women's democratic organization was established, with the name, The League for the Defence of Women's Rights (*Al Rabita*). The founders of this organization were: Dr Niziha Aldulaimi, Dr Rose Khadouri, Safira Jamil Hafid, Salima Alfkhri, Zakia Khayri and myself.

Its main objectives were to raise national, cultural, social health issues and women's rights. It included a number of special committees, such as the literacy committee and women's problems committee with many women lawyer members. *Al Rabita* was not licensed but had great support from Iraqi women.

Members of *Al Rabita* joined the licensed organizations and worked through them. There were four charitable organizations namely, The Committee to Protect Women and Children, the Red Crescent, *Beyout Al Uma* and The Committee for Social Illnesses (which was primarily for disabled children).

Most members of these organizations were the wives of ministers or Director Generals. Members of *Al Rabita* played a significant role in the cultural activities of The Iraqi Women's Union (*Alithad Alnisai Allraqi*). They were seeking political rights for women and managed to

put pressure on the The Union to protest against Britain's war on Egypt in 1956.

Certainly the overthrow of the monarchy on 14 July 1958, led to many changes on women's issues. *Al Rabita* was licensed and changed its name to *Rabitat Al marra Al Iraqia* only, (The League of Iraqi Women) due to a request from Abdul Karim Kassim when he opened its first conference on 8 March 1959. The original name was considered too long.

Iraqi women played a great role in defending the revolution and were present in all fields and the membership of *Al Rabita* increased substantially. It opened branches all over Iraq and members were lawyers, labourers, peasants and teachers from every minority, religion, and ethnic background. In 1960 its membership reached 42,000. It opened 78 literacy centers with 7503 registered women and 605 volunteer teachers. It created 111 centres where women were taught to sew, many small health centres were opened and many cultural events were held. In 1959 *Al Rabita* started publishing a monthly magazine (*Almarra*), whose chief editor was Salwa Zakou.

Dr Naziha Al Dulaimi, the head of *Al Rabita*, became the first Cabinet minister in the Arab world way back in 1959.

Other women's organizations were formed, namely The Organization of Women in Kurdistan and The Women's Organization of the Republic but *Al Rabita* was the biggest by far.

After the fascist regime came to power on 8 February 1963, they repealed the Personal Status Law No. 188/1959 and replaced it with Law No. 11/1963. It was the first law that was repealed, and the primary aim was to remove the articles related to inheritance, as explained below.

At this time, members of *Al Rabita* were subjected to imprisonment, kidnap, torture and execution. Many lost their jobs. They endured these same conditions during all the years of Saddam Hussain's rule of Iraq.

The Personal Status Law No. 188/1959

Before 1959, Iraq had no civil law governing matters of personal status. Efforts to draft such a law were made in the second half of the 40s and the beginning of the 50s. At that time however, women were not included in the legislative process.

In early 1959 a special committee was formed by the executive committee of *Al Rabita* to prepare a draft for the law, in which many women lawyers participated.

The draft was submitted to the government by the President of *Al Rabita*, Dr Naziha Aldulami and was then studied and discussed by a committee of judges, lawyers and religious clergy (*Ulama Aldin*). This committee made few amendments and the law was published in the Government papers on 30 December 1959.

Although based on Islamic law and claiming to derive its principles from those rules in the Shari'a, the new law contained some daring reforms. This law positively affected the lives of Iraqi women, giving them more stability in their family lives.

The law was a response to many concerns raised by women. It required a woman's consent to marriage (Articles 4 and 6) and three Articles made an effort to tackle the issue of child marriage.

Article 8 stated that capacity to marry was complete on the attainment of the age of 18 and according to Article 9, "If a girl or a boy claims after reaching the age of 16, that he or she has attained puberty and requests permission to marry, the judge may grant this if he is satisfied of the truth of their claim and of their physical fitness for marriage."

The most far-reaching reform in the law was the one which gave men and women equal shares in inheritance, the law-makers based this article on the Ottoman law that regulated the rights of succession to the use of government land (*Alaradhi alameria*) and awarded female heirs an equal share to that of their male counterparts in all cases.

The law of 1959 did not ban polygamy but set out strict limitations. Article 3 Section 4 provided that marriage with more than one wife was not sanctioned without the permission of a judge on two conditions:

1. The husband's financial capacity to support more than one wife.
2. That there was some "lawful benefit involved". The determination of this matter would be left to the discretion of the judges.

It is worth mentioning that similar restrictions were also applied in Moroccan law, and Tunisian law banned polygamy completely.

The law also addressed divorce. It imposed a number of restrictions on a man's ability to divorce his wife. The law also allowed women to seek dissolution of marriage through juridical processing (*Tafriq*) on various grounds such as injury and family discord, if the husband was unable to consummate the marriage or afflicted with certain mental or physical illness. The husband's failure to pay maintenance was also grounds for divorce.

New amendments in the 70s were issued regarding polygamy which made it illegal to marry more than one wife but with exceptions such as the approval of the first wife, in the case of mental illness or if the first wife was unable to have children. However, those exceptions have to have the approval of the judge.

The 1959 law dealt with the issue of child custody in Article 57 and stated that the mother had a preferential right to custody of the children. However this right could be forfeited if she were a minor, insane, untrustworthy, deemed unfit for the task or if she married someone who was a stranger to the child (*ajnabi*).

In any case, maternal custody was only granted until the child was aged seven, allowing the Court to extend this period if the welfare of the child so required. In the 1978 amendment, maternal custody was prolonged until the child reached the age of 10 and allowed an extension by the Court until the age of 15 if the child's welfare so demanded.

During the 80s and 90s divorce became a weapon of the regime. Women were encouraged to seek juridical divorce if their husbands evaded or deserted military service, defected to the enemy side, were convicted of treason, or held foreign citizenship and refrained from returning to Iraq for more than three years. Men who divorced wives of "Iranian origin" became eligible for government grants. Women under the age of 45 were not allowed to travel alone and had to be accompanied by a male relative such as a husband, a father or a brother.

Since the toppling of Saddam Hussain, the threat of abolishing Iraq's progressive Personal Status Law has hung like a dark cloud over the heads of Iraqi women.

On 29 December 2003 The Interim Governing Council (IGC) passed Decree 137 to abolish the law. In its place, the Shari'a was to be applied in matters concerning personal status. Activists representing 80 women's organizations carried out a series of organized protests and not only demanded the repeal of the Decree but also that they have an active role in drafting a new personal status law. Non-religious political parties also opposed the Decree.

The IGC then reconsidered the Decree and it was repealed two months later.

This was not the end. The supporters of Decree 137 did not give up. They made sure that Shari'a law was included in the new constitution. Article 39 states that Iraqis are free to deal with matters relating to personal status in accordance with their religion or sect or beliefs or choices and that will be organized by law. It's so ambiguous! Also, on the basis of this Article there is a threat to abolish the Personal Status Law and replace it with a law which depends on Shari'a law.

Women will be the first victims because Shari'a law is in favour of men's rights rather than women's welfare.

The Constitution ignores social and economic rights for women.

Article 2 of the Constitution and the abolishing of Article 44 from the draft concerning international treaties means that women will be taken back to the Middle Ages.

In brief, Iraqi women have lost a lot of their achievements, for which they sacrificed so much over the last four decades.

Iraqi women activists have a great and important role to play, by:

- Educating Iraqi women about the danger of abolishing this law, using all possible avenues, especially the media.
- Exerting pressure on women members in the Iraqi parliament to raise women's issues.
- Asking for an increase in the number of women ministers (In Dr. Ayad Allawi's cabinet there were 6, now there are only 4 women ministers).
- Making contacts with the Secretary General of the United Nations, women's NGOs, and human rights organizations all over the world.
- These are only a few suggestions, but the struggle to fight for women's rights in Iraq is a priority in the re-building of Iraq, and must continue unabated.

Thank you very much for listening.

Mubejel Baban is a founding member of the Iraqi Women's League.

I want to thank everybody for being here with us, and I want to thank Nadjé and my friends here in Act Together for organising this meeting, and giving me this opportunity. It is a big dilemma for the one who speaks last, because after all those who have spoken in a very perfect way, I think I have to be very careful in what I'm going to say.

It is really not easy to talk about Iraq, and the situation there. It is not easy to choose which is the key issue that you want to begin with, or to start with. Of course, I'm not here to tell you some sad stories, which happen every day in Iraq, because I think all of us know, and the media covers a lot of it. But I'm here maybe to discuss some ways to put some good strategies forward to work together or act together.

What is happening in Iraq, is not because of just one reason or related to one factor alone. It is because of the American occupation, and also because of the bad history of Saddam, and now because of something new - these new military groups - and all this mess which has happened is all of this at the same time. But the worst thing is, that after three years neither the American, or the Iraqi political leaders, have really tried to do anything about it. Maybe when we talk about this now, maybe someone will ask, "With all that has happened now, do you feel that it is better to return back to dictatorship? Or it is better that at least you are safe, and you can move, or you can do what you like now?" It seems to me there is a problem of some kind with the definitions of life and freedom. During Saddam's period we lost our freedom, and we lived in a very bad security situation, and very bad economic situation, but at least we could move, we could go, we could come. And now, with the dream of democracy we lose our we start to lose our life. People will ask, maybe even me, what shall I do with democracy with all this mess? This is what most of the Iraqi people now are doubting - democracy itself - and some of them are actually asking, "What is this, is it a democracy? If it is, well, we will return to dictatorship, or we can come back to Saddam, and at least we will be safe. At least we have today. Okay, we know nothing of the future, but at least we have today." But now we are under this - all of us are living under all these pressures.

First of all let us look at the suffering of Iraqi women. It is part of the suffering of the whole of Iraq, yes, but at the same time, which is strange, there is an official effort to increase the suffering of Iraqi women by making a new law, or some decrees, in order to make limits to the lives of all Iraqi women. And yet this is not the nature of our society in Iraq. For instance, they are now talking about not allowing women to work after the age of seventeen or eighteen, or to drive the car, or to enter sports. Even in Saddam's period there were some problems with all these things, but it seems that everybody then in Iraq forgot Islam, but they suddenly remember Islam or Shari'a. The second problem with women's issues in Iraq is that when they need her to, the woman works. There is no problem then letting the woman work and drive the car. If all the men have to deal with military forces, and they have to join the Army, then the women have to work, and deal with all the family matters, and drive the car, and so on. But when there is no need for this, suddenly there is this man, and he is their political leader. He says, "As for women, it's better for them to be in their houses, and we have to protect her, and we are worried about her, and it's better for her not to work."

As an Iraqi woman, when I saw these Iraqi political leaders returning to the country, I didn't think that I would be worried any more about women's issues and that they would not be a problem any more. I supposed that these people had left Iraq because of the absence of democracy, and I supposed that they were coming back to rebuild democracy in Iraq. Most of them had been in the UK and the US. But what happened is, when it came to the election period, all of them were talking about "the women's issue". They wanted us in their photographs, they always let a woman sit beside them - even the religious political parties. Yes, they refuse to shake hands with the women, but during the elections they introduced the woman beside them, and said they were very careful with women's issues, and most of them said they were 'feminists'. But just after the elections had finished, and when they had got their results - immediately they had been announced - "Now what do you need as a woman?" They always ask us, "What do you need?" In the parliament we have 71 women, and they said this is what they had given us women in Iraq, so we have to be satisfied with this number, and no more talking about women's issues.

In fact the number of women in the parliament is because of the quota, not because the male political leaders agree with it. And the quota in Iraq was actually put in the Constitution by the influence of the Iraqi women, because even the Americans were against adopting the quota in the Constitution. And in Iraq now - in all this bad situation - with all this suffering of the society - Iraqi women, through the Iraqi Women's Movement, through all these organisations, we try to do something for the society. We try to help.

I want to talk now about other areas such as educating women, most of our programmes work in this field. We have been trying to do something for the women in the villages and the cities, but again because of the security situation, we cannot keep working on this. We are worried, as a Women's Movement, about the Constitution, and about the law, because we feel it is something which should protect women in Iraq, and I think it is something that should be a law for Iraqis, I mean for all the different societies, and it should be a law which is organised for ourselves. Everybody now is trying to delete all these achievements of Iraqi society and Iraqi women. They started making the Constitution, and just after the first draft we found out they had put in this article - they wanted to delete the family law. And we started at that time campaigning on this - trying to delete this new article. We held three protests in the Iraqi streets, in Baghdad, in the streets in the summer and, you know, of course, as NGOs we have no-one - no bodyguards, nobody works as a security man for us - but we did it by ourselves. Then we met the Constitution Committee, we talked with them. They said that they were worried about women's issues. But the same as with the Americans, and the British, and the UN, they gave a promise. But this is actually what happened to us: they promised us that they would take care of this, and they would try to delete this article, but it seems it was only words.

The second thing which has happened is that people say it is not one of the priorities. They always say the same, "Let us finish with the security situation, let us finish with the economic situation, and then we will deal with women's issues." It seems that it is something not very urgent, or not very important, and you are just worrying unnecessarily about it. Sometimes

with some of them, you can read from their eyes that they don't listen to what are you talking about, you are just saying something for the sake of saying something, you are just making a noise.

Let us look at women in parliament and the Iraqi Women's Movement. When we look at the Islamic women who are now in the parliament, they are not part of the Iraqi Women's Movement, they just repeat the programmes of their political parties. They do not see women's issues as their problem, because they are not politicians, they are not feminists. One may be a very simple teacher, or an engineer, and now she is part of this political party, and the party tells her, la-la-la-la, then whenever we talk with her, she just repeats what they say. And, naturally, most of them are worried about the Chair, because she believes that she is now in parliament because of this law, political law, or this political party, not because of the support of women. That is why we are working on it with them - we want to save them from this dilemma, because it matters so much for women, for all women and only the women in Iraqi Women's Movement. But still it is not easy, because their leaders have control over them, and over their ideas, and they always choose their weakness, and the weakest woman from the party, and put them in the parliament, in order to make it easy for them to say what they tell them to say. I want to point out that this is not only true for the Islamic political parties, it is also for the Liberal political parties in Iraq. They were and are also very naive about women's issues. We have tried discussing with them, because we need their support, but it seems it is the same story - women's issues are not a priority.

That is why we are working hard just by ourselves, and maybe for the next little while - for the near future - we need the support, the real support, of women in the rest of the world. And I think it is the time for this, because if we cannot move inside Iraq, at least there is somebody who supports us, and moves and makes contacts with the others from outside Iraq.

The violence now in Iraq is against all the Iraqis. Sometimes these military groups use force on the women first. And what's happened in Iraq, is not only to the secular women, or women without hijab, because we found they killed two or three women, who had full hijab. They were Islamic women, and they just killed them, and we found them on the street. So maybe this is a part of their plan to make a mess of the society. Of course, more than this has happened, and of course it will. Life for Iraqi families is very difficult. Women are starting to be afraid to go outside their houses, or to drive a car, and the Christians have even started to cover their hair, because nobody knows what will happen after ten minutes in the street.

Now I want to discuss Article 41 of the Constitution. By adopting this article the family law will be deleted in Iraq. Some people outside the country think that the family law in Iraq is civil law, actually, it is not, it's based on Shari'a and Islamia, and it covers all the Islamic rules. In this case there is no reason to say that it belongs to either Shi'a or to Sunni. It is a unified law. So if they want to delete this law, I want to ask, and I always ask them, how many courts will we establish in Iraq? Please don't think that we have only Shi'as. Within Shi'a there are so many courts, within Sunni there are so many courts, so how many courts will we establish, and who will deal with these courts? Are they religious men or are they judges, who will deal with these

courts? I don't think that the Iraqi government has the ability and the time to establish these courts, when they are just worried about the security situation, which is an important situation. That is why I think they will leave it for the religious men. Sometimes they discuss this article with us. They always say that they want to preserve themselves as a group within Islam, I mean as Shi'a or as Sunni. We understand this, but according to the existing family law in Iraq, this already exists. For example, when you go to the court in order to get married, or divorced, the Judge asks you, "Do you want it according to Shi'a or do you want it according to Sunni?" So there is no problem with that. Another thing we are worried about by adopting this article is the problems with some Islamic rules; for example in relation to the suitable age for a woman to get married. Some Islamic groups consider that nine years for the girl is a suitable age to get married. Her parents can take her to the religious man and get her married to a man. So the existing family law is not something which is good only for women; it is good for the whole society, because it is based on the family. With this law we protect our families, and, as a result, we protect our society.

What shall we do with mixed families? Perhaps the father is from a Sunni background, and the mother from a Shi'a family; if they are divorced, or they die, what will happen with the family? And their brothers - I mean the boys, or the men in the family - they will take all the rights of the woman? Because the woman cannot do anything, and the men can do what they like to do. On this point I want to say that even the new Iraqi Constitution says in its first article that all Iraqis are equal, but in article 41 it seems they are not equal, because every group can put their conditions as they like, and they have no need for equality.

We also have a problem over international conventions and declarations. Some of the Constitution Committee members, when we talked with them about it, they said, "Well, these documents are signed by Saddam, and Saddam has gone, so we will read them again, and maybe we'll adopt them, maybe not. Maybe some of it is against Shari'a, Islamia, and maybe there is no need for it." Let me make clear, first of all, it was not Saddam who signed, it was Iraq who signed, so it is something belonging to the Iraqi state, not to Saddam. The UN, the US, and the UK actually helped us try to put in an article referring to these declarations. So, again, we have another disappointment about that, and this is what we are working on during our campaign. We want to delete Article 41, and to adopt a new article about the Human Rights Declarations. In the environment we are working in, in Iraq, it is not easy, but still we have our hope, our dream. For us it is something we have to work on.

Working in Iraq is not easy, you know, because I believe all that's happened is not in the nature of our society. I am talking like this because I have always been in Iraq, I never left the country before. I know that with all these difficulties we always, as a family, respected the woman - respected her, and always encouraged her to be educated, to improve herself. But suddenly, what's happened now, with the Islamic Party is very strange. It is something about doubting the role of the woman - there is always some shortage of view for the role of the woman, and what she should do in her society. It seems that the problem of the era is only whether to cover your hair, or not. The point is, in the older Islam, it was up to the woman to cover her head, or put on the niqab, or not. Sometimes I tell them, "OK. If I wear a hijab, all our

problems will be solved. All of us will wear it! No problem!" It appears that they forget about all that is happening in Iraq, and what matters is just what women wear, or not. It is unreal! ...But this is also something which we have to deal with it.

And another thing that is strange, most of the Iraqi men are also sometimes naive about this issue. It seems to me that we need to work together, men and women, because it is something for the whole society - it is not only for Iraqi women, because they want to go to work, or to do something. This is what makes our work more complicated and more difficult. Maybe during the few next days, because I am here in London, maybe we can meet again and plan some real strategies for working together to give Iraqi women some more support, in order to achieve something for Iraqi society.

END OF MAIN TALK

Question:

Why don't the Liberal groups and parties work hard for, and focus on this important issue of women's rights? And how could you make it a priority for women in Iraq to fight for their rights?

Sundus Abass:

As regards the Liberals, because of this complicated situation, and the political struggle, I think that women's issues are not the priority on their agenda. So, for example, for the Kurdish people, when they discuss the articles of the Constitution, they are just worried about federalism. And when we need their support it seems that what they are saying is, "Let us finish with federalism, and then we will discuss women's issues." Though, actually, the Kurdish leaders are the only ones who help us, not like the others. And how can we make it a priority? You know, it is not easy, because when our people in Iraq are under these difficulties, and this bad security situation and very bad economic situation, it is not easy to get people to worry about their rights. And this is especially true for the women, because she is always worried about her children, about her life itself, about money, about the electricity, all these things are her priority, so certainly some of them will say, "Oh, do you have this kind of problem?" When we talk about it, as Mubejel said, when we talk about the family law, most of them are shocked, "Oh, will we have some kind of problem in Iraq if they delete this? If they take this article out, what will happen to us?" So because of all these difficulties it is not easy, but we are working in many ways - we use media, we hold workshops and classes in order to talk with them, and we start to at least make the women's issue a general issue. People are now talking about what women want, what are the rights of women, what are human rights. They are starting to talk about it, but it still needs work. And this is what I am worried about. If they start to threaten people, and people leave the country, who will work there? This is what I'm afraid of. I wonder if there is any infrastructure whereby we can just continue working by e-mail, or by phone? I don't think so. Working in Iraq, we need to be there, working on the ground with the people, supporting them. But it is very easy, you cannot imagine, it is very easy to be killed in Iraq... Just by five minutes your life is finished, and everything is finished, and maybe you cannot find anybody who will cover your body in the streets, this is what happens.

Question:

Can you tell us any more about women's organising, and the space that there is? It seems to me that you are under attack from two sides, two kinds of illegality are happening. First of all, the illegal occupation of Iraq and, secondly, the illegal insurgencies that are now occurring, both very violent, what space is there for women's organising between these two illegalities, what space do you have?

Sundus:

As for the women's organisations, they are the best - they are the most active side of all the civil society organisations. Women in Iraq are active, you know, maybe because of the difficult lives they have, and have always faced so many difficulties over the last few years, so they are very, very active, and we, as organisations there in Iraq, we try to work in defence of all these women. Sometimes, of course, some of them are against us, obviously they are against us. But we always try to do something, to have an initiative to work, we always try to organise meetings, to have contact with the people. For the Iraqi Women's Movement, even if some are against us, or sometimes they try to ignore our efforts, they cannot, because we work, and keep working. So I think if we have help, and we support each other, we will recover something for Iraqi women, especially in the period of the Review of the Constitution. We asked to not make it only three months, we asked for one year, because we think that with all this crisis nobody will care about the Constitution, and maybe they will pass it again. That's why we are working with other groups, Iraqi groups, and with the UN, in order to make it one year, and we want them to allow the NGOs to participate in the committee. We also want to put pressure on, to get some professor of Constitutional Law to participate in the committee for rewriting the Constitution.

Questions were asked about the women's quota.

Sundus:

As regards the quota, for the last Iraqi parliament it was more than 25% which was achieved, and this is because of the system of elections. Iraq was considered as one area. For the second elections we divided Iraq into more than one area, and also achieved the quota. But we lost 16 of our chairs, I mean women chairs in the parliament, but still it was 25%. It seems to me there is a dilemma with the quota. On the one hand you want women to be properly represented in the parliament but on the other hand you have to be worried about the quality of the women, which women. A lot of them will be against you, against women's issues in themselves, or won't support you. But actually, for us, we adopted the quota, and we support the quota, and we still, for me at least, still keep supporting women in the Iraqi parliament. We still support them, because we need our society to see women in decision-making positions. Because this was the problem in Saddam's period. The state depended on women's efforts in all fields, but he refused to let women be in decision-making positions. But what we have faced with the quota, for example, is that they adopted it as an Article in the Constitution, but when they established the government, they refused to give adequate ministries to women. We have 71 elected women, and when they discuss the government, or discuss anything about political issues, or the political process, there are no women present, there are only

men. This is not our mistake, but this is something that we have to work on. We need another quota in the government, because for them, they always ignore the efforts of women, and ignore the women. If you ask about supporting women in the Iraqi parliament, as I told you, they are, most of them just a mouthpiece for the political leaders, but I think it is our role - the role of the Iraqi Women's Movement - to support them, and it's important for us to work with them.

Mubejel Baban:

May I add something? Certainly those women members in the parliament, they didn't come through the right channels. I mean they came through influence in their parties, and as you know, they are very well paid. They will lose their seats if they don't obey their bosses, so they have to follow their leadership, they don't care about women's issues.

There was some discussion around the 'right' said to be given under Shari'a law, for a man to hit his wife.

Sundus:

And, again, I say this is our role - this is the role of the Iraqi Women's Movement to keep working, to let them know that this is dangerous. Actually, for me, if you ask me, I think there will be a change for the next generation in Iraq. Young women now, after four or five years, all of them, will refuse this right - to give this right to the man. Maybe women in Iraq now, we accept it, because it is a law, and all our family says it is okay. But for the future, I think they will, absolutely, they will refuse all these things.

Question:

Can I just ask why? Everything else seems to be actually going in the other direction, why would the younger generation refuse it?

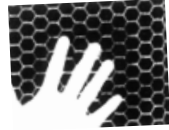
Sundus:

You know, because it is the nature of modern life. Now for us, we have never traveled, we have never seen... We just read what they had written, we just listened to what they said, but now it is open, it is so different for them. Now, if you see, all the Iraqi families have satellite, and Internet, and they are starting to discuss these things like who has the right - whether the man has the right to hit his wife. They can learn that it is according to Iraqi law, it is covered by Iraqi law.

Sundus Abass is Director of Women in Leadership Institute, Baghdad

ACT TOGETHER
Women's Action for Iraq

PO Box 34728, London N7 6XE
information@acttogether.org, www.acttogether.org



Take Action Now!

We have asked Sundus Abass to come up with some concrete actions that she would like you to take to support Iraqi women.

1. Pressure your government (Prime Minister and MPs) as well as the US government to draw up a concrete timetable for withdrawal of troops from Iraq.
2. Pressure the British and US governments to revoke criminal immunity for UK and US soldiers for crimes committed in Iraq.
3. Support Iraqi universities, students and academics by engaging in the exchange of information, resources (books, periodicals, scholarships etc) and expertise.
4. Support Iraqi NGOs that play a crucial role in addressing urgent humanitarian and educational needs on the ground – fundraising, exchange of expertise and information.
5. Encourage The British Council to pay a more active and effective role by supporting Iraqi students and scholars as well as educational and cultural institutions and projects.
6. Support the Iraqi women's movement by:
 - a) directly getting in contact with Iraqi women's organizations inside Iraq and engage in exchange of experience, information and resources
 - b) start international solidarity movements to pressurise the Iraqi Parliament to adopt international conventions on human rights and women's rights.
7. Support the demands of the Iraqi women's movement to:
 - a) prolong the period for constitutional amendments from three months to one year
 - b) to delete article 41 of the Constitution and keep a unified personal status code.

Prepared on the start of the visit to the UK of Sundus Abass, July 16-31st 2006
For further information see www.acttogether.org

We, the Iraqi Women's Network in Iraq as well as Act Together: Women's Action for Iraq are most grateful to you for chairing the meeting last Wednesday, in the House of Commons, for Sundus Abass, Director of the "Women in Leadership Institute" in Baghdad, which, along with 37 other Iraqi women's organisations in Iraq has been campaigning, in increasingly dangerous environments, to have repealed the intensely discriminatory Article 41 in the new Iraqi Constitution.

Women in Iraq, as I know you are well aware, now face the threat of having all the rights they have enjoyed since 1959 taken away from them. The 1959 Personal Status Code (Family Law), as I explained at the meeting, was based on a *progressive* reading of Islamic Law. It codified all the existing laws relating to marriage, divorce, custody, inheritance etc, but uniquely it combined Sunni and Shi'a regulations and applied to *all* Iraqis, whether Kurds, Arabs, Sunnis, or Shi'ite thus giving a sense of unity to the Iraqi population as a whole. Amendments to this Code were made by the Ba'ath regime in 1978, widening the conditions under which a woman could seek a divorce, outlawing forced marriages, and requiring a judge's permission for a man to marry a second wife. It also prescribed punishments for marriages contracted without legal authorisation.

From the 50s, Iraqi women have been foremost in the region to enjoy equality and thus have been able access education and training and to enter many professions – law, medicine, engineering, academia – on an equal basis with men. Iraq was a secular society, but despite government repression largely without sectarian violence, and Shi'ite, Sunni and Kurds intermarried, lived and worked side by side.

Article 41, if retained in the Constitution, will change totally and irrevocably the lives of Iraqi women. The old Personal Status Family Code, which applied to everyone, will be replaced by family laws pertaining to specific religious and ethnic communities. Authority will reside in conservative religious leaders who can interpret the Shari'a according to their own beliefs. In some communities, the marriage of girls as young as 9 will be sanctioned; women may be forced into marriages, or remarried, against their will, if widowed, to a dead husband's male relative. Inheritance, custody of children, and divorce rights will be denied to women. The judiciary will not be independent, and women, unprotected by any legal safeguards, will experience a regime similar to that imposed by the Taliban in Afghanistan.

But Article 41 does not merely erode the rights of women and deny them the rights they are entitled to under International Law (Iraq ratified the CEDAW, albeit with reservations), it will also fuel and increase sectarianism and ethnic cleansing inside the country. It will make new mixed marriages virtually impossible, will threaten existing ones, and will leave in extreme vulnerability those citizens of Iraq who belong to no religious group at all. It will further a sense of *communalism* as opposed to *unified citizenship* and condemn Iraq to continual sectarian violence, and chronic civil war.

What can be done? In addition to opposition to Article 41, there are other issues such as federalism and the status of Kirkuk that had to be resolved. It was agreed last year before the referendum on the Constitution that there would be a three-month window of opportunity for a constitutional committee to amend the proposed new clauses once the new government was formed. However, so far no constitutional draft committee has even been established. The current security situation makes it impossible for any consultations, meetings, campaigns and debates to take place. And there is also the issue of the status of **International Conventions, Treaties, and Laws** in relation to Shari'a law. Which takes precedence?

Women's groups throughout Iraq, even in the North, are being harassed if they attempt to mobilise and lobby for their rights in the constitution. In the south and other parts women are forced now to wear the *hijab* (headscarf) and adopt conservative dress. Millions of women and girls dare not leave their homes to go to school, to university, to work, or simply to go to market and support their families.

Women and women's rights are being instrumentalized by the US and UK government who promised liberation but have not actually supported women's rights. Women have also been instrumentalized by the new Islamist political parties who use women symbolically to break with the previous largely secular regime. And finally women are being used by the insurgents to express their resistance to western cultural impositions and occupation, harassing and threatening women verbally and physically, even killing those who are involved in the struggle for women's rights.

The increasing sectarian violence, fuelled by – and to some extent tolerated by the occupation forces – means many women identify with their communal/ethnic/religious group for protection from the “men”, rather than risk their lives by joining forces with “women”.

We, the Iraqi women's groups in the UK are working closely with our sister groups in Iraq, and ask the UK government to use all means, diplomatic, political, financial (aid) to persuade the Iraqi government to:

- a) Extend the period for determining constitutional amendments from three months to one year.
- b) Delete Article 41 in its entirety from the Constitution.
- c) Insert as Article 1 that, “International Conventions, ratified by Iraq, take precedence over all interpretations of domestic law.”

We all know that unless International Laws are enshrined in the Constitution, there is no hope for democracy, peace, and respect for human rights, let alone the rights of women.

There is a cruel irony in the fact that the US, aided by the UK, told the world it was bringing “democracy and liberation” to the people of Iraq, when what they have brought in is chaos, violence, and the social death of millions of women...and women now far outnumber men in the population due to the series of wars and repression by the previous regime. Will the UK

government now distance itself from the US (which is one of only two countries never to have signed up to the CEDAW) and speak up for the human rights of over half the population?

Also, we would beg you to remind the UK Government of its responsibilities under Security Council Resolution 1325 which requires all actors engaged in conflict resolution, management and prevention to consider the impact of conflict upon women, ensure that women are engaged in peace processes, and that the new constitutions and laws accommodate the principles enshrined in international conventions and laws.

To comply fully with 1325 (and we understand that the UK government has recently published its own Action Plan as a follow-up to the UN Action Plan on Implementation of 1325) we hope that the UK government will persuade the new Iraqi government to ensure that the constitutional drafting committee contains at least 25% of women in its membership. In this regard, would you be able to approach the All Party Parliamentary Group on 1325, chaired by Joan Ruddock M.P, to bring this matter to the attention of the appropriate ministers?

With very kind regards, and immense appreciation,

Sundus Abass, *Director, Women in Leadership Institute (Baghdad, Iraq)*
Nadjie Al-Ali, *Act Together- Women's Action for Iraq (UK)*

Transcript of a Discussion Between Iraqi Women in London, July 2006

This is a transcript of a 26 minute film edited from a 2 hour conversation between Sundus Abass, Mubejel Baban and Bdoor Zaki Mohammed.

Sundus Abass is an Iraqi women's rights activist and was in London at the invitation of Act Together: Women's Action for Iraq.

Mubejel Baban is an Iraqi who has lived for many years in London. She was a women's activist in Iraq in the 50s and 60s.

Bdoor Zaki Mohammed is an Iraqi lawyer who has also lived in the UK for some time.

Mubejel Baban

All that time they were negotiating about who should be in the government, did you once hear the name of a woman, were there any women involved in the talk?

Sundus Abass & Bdoor Zaki Mohammed

No.

No. Not at all.

Mubejel

It's incredible, they should be ashamed of themselves.

Sundus

I mean, it's amazing, is Iraq suddenly empty of women? Once I made a joke - I mean if they're going to 'sterilise' the country, they need to get rid of the men and the women, not just the women - you can't have a country that has only men and no women.

Sundus

As early as the 20s Iraqi women in Iraq played a role in public life. We can speak of social traditions and customs, but they were never that strict and they never rejected the role of women - for example, women in Iraq in the 30s studied in fields which were usually reserved for men, both in the Middle East and elsewhere in the world. It became acceptable, for example, for women to study medicine or law in Iraq in the 30s. And from the beginning of the 40s, Iraqi women were active in politics - in 1948, the women's movement had its first martyr in the uprising of the Bridge - and everyone knows this. And in the 50s there was actually a woman cabinet minister.

The economic boom of the 70s in Iraq, brought a great number of women into the workforce, and then with the coming of war in 1980 the reliance on women grew - and, by the way, at that time, there was never any argument about whether women should be working or not, never any objection to giving them responsibility, or even to their working late at night.

Despite everything, women were able to preserve their families – You know that usually in societies exposed to war and sanctions, values deteriorate and families start to fall apart, but in Iraq, despite all the problems that people suffered, families managed to stay together and survive as a unit. And all this was down to the efforts of women. A woman had to wake very early, prepare everything in the house, find a place to leave the children, go to work because she was the one supporting the family since the husband was forced to be fighting in the war, and the wage he got was barely enough to cover his transport, cigarettes or simple daily needs. So women had to be the breadwinners and this was in a situation of continuous wars and sanctions, where the economic situation of the family was desperate. Iraqi women also had to deal with the psychological effects of war on their men folk. There is a generation of Iraqi men whose whole youth was spent at war.

Law and the Family

Bdoor

We're going through a difficult period. Lots of different powers are determining what happens in the country. So, the law of the land is not being implemented – or only in a very partial way. So we are not thinking about Iraq right now, but in the future. Why is law important? Because when there's law you know that your rights are protected. If there is a personal status law, women know what they have a right to, and so do men – law in general is something useful.

'Personal status' covers what concerns marriage, divorce, inheritance, wills, child custody – everything that concerns the family – from the beginning to the end.

The Personal Status Law of 1959

Mubejel

I was on the secretariat of the Iraqi Women's League – there was a special committee formed and we invited women lawyers, in particular, to put together a draft of the law.

They produced a draft and the Women's League then studied the draft - at that time, the head of the Women's League was Dr Naziha Al Dulaimi, a minister in Abdul Karim Kasim's government. She took the draft to the council of ministers. They in turn, established another, broad-based committee – they brought in legal experts, lawyers and judges. They studied the draft and made a few minor changes – and it was passed and became law on December 1, 1959.

We were the one organisation which expressed the feelings of women, their demands and their problems. So that's why when the revolution of July 14th 1958 happened, and the League became legal, there was tremendous support for us. We didn't have time to do everything we wanted to do – I remember I used to go out of the house in the morning – I had a job, 3 young kids, born one after the other, and after work I'd go to the League offices and then there were meetings – different committees - and I used to finally get home at 11, 12 at night exhausted – but actually we didn't feel weary – we just didn't – we had all this energy - and by the way, as

I said my kids were young, so I didn't sleep all night – you'd just get one to sleep and one of the others would wake up. And I never missed even 5 minutes of my work at the bank. There was a real feeling of commitment and desire for change from these women. We really felt this was our time. If we didn't change things for women now, it was going to be too late.

Bdoor

The Personal Status Law, which now exists and which there's so much argument about, and which a lot of people are trying to get rid of – this law was based on Islamic Shari'a law – parts are taken from the Hanafi sect's teaching, some from the Ja'afari, some from the Shafi'i – from all the different Sunni and Shi'a teachings. As Mubejel said there was a tremendous amount of work that went into the law – the opinions of religious experts from all the sects was sought, and brought together in the law so that in the end it would be something to serve the whole community, all the different sects. If we want to look for one 'Islamic Law', which covers marriage, divorce, child custody etc – we won't find it. Each sect has its own rules. The Personal Status Law was a huge achievement taking a bit from each sect – so that someone from the Shi'a Ja'afari sect doesn't feel oppressed, nor a Sunni person because the law combines the teachings of all the sects. For example, take inheritance – there's a difference between Sunni and Shi'a with regard to what women can inherit. For the Shi'as, if the parents die and they have one daughter, she will inherit everything, but for the Sunnis, she would only get half the inheritance – and her male relatives would take the rest. So what did this law do? It took the Shi'a stance on this question because this protects the rights of women. So according to this law, women can inherit everything. In our society we used to have a situation, which Sunnis used to complain about: if Sunni parents wanted to protect their daughters, they were forced to go to a religious court and say they were changing to become Shi'as – in order to protect their daughters' rights. So this law took what was best from each sect and incorporated it. As I said, there is no such thing as one 'Islamic Law'. We support this law because it is based on Shari'a, but takes the best from each part of it.

The New Constitution & The Personal Status Law

Sundus

The constitutional committee was formed after the elections (in January 2005) and began drafting the new constitution. In the very first draft there was a provision that stated that everything to do with the life of the family – I mean marriage, divorce, child custody – should be decided on the basis of the individual's religion, sect or belief. Immediately all the women's organisations went into action – we tried to make clear to the constitutional committee the dangers inherent in such a provision. It meant in reality annulling the Personal Status Law, which, as we said before, dated from the 50s and has nothing to do with the Ba'ath regime or Saddam. It was completely the result of the efforts of Iraqi women and Iraqi lawyers.

The final draft of the constitution was voted on in the referendum (October 2005) and passed, and it contains article 41 which returns anything connected to our personal status to our religious identities and beliefs. So what does this mean? It means that all decisions about these issues will now be made by Shari'a courts. In other words, we won't have official courts

anymore but will go back to the situation we were in before 1959 – which means that the power will return to the men of religion who will be making these decisions according to their own interpretations, because as Bdoor said there is no such thing as one Islamic Law to which everyone can refer.

Bdoor

The danger is not from people who really know the law – we are going to get judges who don't even really know Shari'a law - so they will make decisions however they please – and it's not only women's rights that will be lost, but men's as well.

Sundus

Say there's a women who is trying to get a divorce or has a child custody problem, and she lives, for example, in the Aadhamiya area (mostly Sunni) – the ruling she'd get there would be different to one she'd get in the Shaab area just next door (mostly Shi'a) – because the whole thing is only dependent on the opinion of the individual man of religion who is handing down the judgement.

Bdoor

Actually even within the same sect, men of religion will have different opinions. In one area a man of religion will say that a girl can be married at 9 years, another will say 'no, she has to be 15'. Within the Shi'a sect, for example, there are differences; the Ja'afari interpretation will say a girl can marry at 9, the Maliki at 15 or 17. So within the same sect you're going to create these disagreements – so how is it going to be between the sects? And at the moment we are in a very difficult situation – there are people trying to divide us from each other – people trying to create divisions between the different sects and even within the same sects.

Sundus

All the political forces in Iraq at the moment are calling for national unity. Well, can you really hope to build national unity on the political level while you're busy fragmenting life and undoing unity on a social level? You can't build national unity without a solid base of unity on a social level.

What is International Law?

Sundus

As the world developed, people began to realise that they could work together and affect each other. And, for example at the UN, people saw that there were shared problems. Each country had its own problems, but there were issues that seemed to be common. So it seemed a good idea to gather together legal experts from all over the world to try to put together laws at an international level, which would support the legal systems at national level and help the people in different countries to solve some of the problems they had in common with others. One of the international conventions, for example, was the one outlawing discrimination against women, which is known as CEDAW. This deals with all kinds of discrimination against women. Another convention is the Human Rights Declaration of 1948. These laws and conventions

are not something produced by the West. They are the result of international effort, and Muslims and Arabs participated in the making of these laws.

International Law & the New Constitution

Sundus

There was support for international conventions in Iraq, but unfortunately, like everything else in Iraq, it wasn't realised – there was no implementation of international conventions. For example, Iraq had signed up to CEDAW in 1986, except for 5 provisions – and one of these was the provision that asked for any law that was not in accordance with CEDAW to be removed from the local statute books – which meant, of course, that it was all show. The government wasn't going to change anything. We had high hopes that once the regime fell and there was a desire to build democracy, this would all be dealt with. We women believed that we could get the 5 reservations to CEDAW lifted and then we'd have something that could help to safeguard our rights as women.

But what happened was that international law was completely ignored. So in the new constitution there is absolutely no mention of international law as one of the sources of legislation – none whatsoever – no sense that an Iraqi individual should enjoy the rights enshrined in international law.

Bdoor

Why should we refuse these international conventions? Take violence in the family – well, the constitution outlaws this – so do international conventions – no violence in the family or in school – it's a humanitarian issue – why should we be against it? International conventions don't contradict Shari'a – we can take things from the conventions that are good and useful, and we don't need to worry about things that don't apply to us.

International Law Can Help to Protect Women

Bdoor

I'm a lawyer and I remember a case in the 70s; there were 3 young men, brothers, an engineer, a teacher and so on – all of them educated professionals – well, they got together and they killed their mother. She was about 55 years old. They killed her because they thought she was acting improperly. She'd been widowed long before, had worked long and hard to bring them all up, provide for them and educate them – they killed her. Well, the law punished a man who killed his wife or one of his female relatives with a 6 month sentence – or even sometimes only 2 – because this was supposed to be a killing to cleanse shame (an honour killing). So international law says it is illegal to have a law which encourages the killing of woman – and this is like Islam. The Qur'an says 'Killing one person is like killing everyone' Islam doesn't not encourage killing anyone.

Sundus

Ours is a society which has gone through wars, sanctions and now occupation; obviously

violent behaviour has increased. The psychological pressure in the family has that result. Why does all this fall on women and why don't they have a right to complain or object? I'm not even talking about how you increase awareness among women so they become more willing to talk about the violence they suffer – but legally – the law encourages men to beat their wives – and issues of honour and shame, for example, if a man finds his wife in a compromising position it is his right to kill her, but it's not her right to do the same – of course, I'm not asking for equality in this kind of violence, but I am asking for it to be dealt with by law. These provisions which allow violence against women exist in Iraqi law at the moment and they are implemented. The strange thing is that none of the governments since the fall of the regime – neither the transitional government, nor Bremmer's government before it, thought to address these provisions in the law or even to discuss them. So imagine if we don't even have the support of international law to help us fight against violence in the family and on the street.

What is a 'Quota'?

Sundus

The idea of a percentage reserved for women, known as a quota, is partly to help society get used to women being part of the decision-making process. This is not just window-dressing – to say 'look, we have a government which includes men and women', that's not the point. Women's participation in politics is important, their contribution to decision-making is important. Why? Because women tend more towards decisions encouraging peace rather than those encouraging violence and wars. Women give greater importance to social and educational issues. As an Iraqi person, at least I will feel that these issues will be discussed and will be given importance and that the country's budget is not going to be entirely spent on weapons, or armed forces, or the security services.

It is interesting that the people who came to power after the fall of the regime, didn't seem to believe in this at all. I mean in the Governing Council, for example, there was just a shameful and laughable 3 women out of 25 and, by the way, even Bremmer, heading the CPA (Coalition Provisional Authority) was against a quota for women – but there was a huge effort by women and some progressive men to get a quota.

Getting the quota created a new situation; the women who were elected to decision-making positions got there through their political parties, especially in parliament. So most of these women felt they owed their positions to these political parties, and not out of support for them as women or because of their individual abilities. It's a problem for these women; they believe they got there because of their parties and they feel they owe a constant allegiance to the leadership of these parties. So what happened is that many of the women elected to parliament actually stood against the demands of women, when it came to the constitution.

Bdoor

There's a slogan raised by some of the people who don't want women to progress or take their place in the political process; they say, "it's a matter of abilities, we only want capable women." Well let me ask you this – are all the men running the country at the moment 'capable'?

People are gaining positions of power in different ways – through the parties, nepotism, whatever. Why is it only when you speak of women does it become a matter of capabilities? We want these women who've been elected to be sensitive to the needs of their sisters - how they can help them after all these long years of suffering through wars, through all the pain. We want women in parliament to be a voice for other women, and a voice for men as well – they should represent them both. We don't want women to toe their party's line – the party is using them, actually. Women in parliament need to feel themselves to be women first.

Sundus

I think support of the women's movement for women in decision-making positions will help to get them out of the trap they're in. If they feel that they are supported by women outside parliament and the parties, if they feel that we believe in them, then they will more easily be able to escape the dominating influence of their party leaderships.

Amending the Constitution

Sundus

Despite all the efforts of the women's movement, the constitution contains provisions, which are against women's rights, as we said. But there is a glimmer of hope; the constitution was passed in the referendum, but there is a period of time which has been allocated for amendments, before the constitution becomes law. There is a period of 3 months - from the appointment of a government and a constitutional committee – during which the constitution can be amended.

What Will Women Be Asking For?

Sundus

We're under a lot of pressure, there's confusion between the party leaderships, and different parts of the political process, and there's the terrible security situation – so it's impossible to think that 3 months is going to be long enough to amend the constitution. We're, therefore, asking for the period to be extended to a year.

The other thing we have to do is to raise the awareness of women. People are not aware of the law and women in Iraq don't really know their rights. This is not a matter of ignorance as such, but has to do with the cruel circumstances of life in Iraq. In the context of this daily pressure, where your actual life is threatened at every moment, it sometimes feels beside the point to talk about duties and rights. So it's very important to raise people's awareness of their rights.

We need to work on the international level, as well. Iraq has been involved in international conventions, it is part of the world community. Everyone has to take responsibility – everyone needs to take responsibility for human rights in Iraq.

Also now there is a programme of national reconciliation, proposed by the Prime Minister.

The Women's Movement supports this initiative, as civil society groups, not because we are a part of the government, but because we believe in it. The most important thing in Iraq at the moment is to achieve some sort of national unity. Every Iraqi who believes this, needs to demand that the Personal Status Law stays on the books. This is important not just for women, but for the whole society so we can rid ourselves of this dreadful sectarian spirit which is invading our lives.

But We Are Still Under Occupation

Bdoor

This occupation was forced on us; we don't want it, but what we do want is to build our country. Let everyone who is against this occupation work to build the country. Let them place a brick to help build the country and not throw stones at its people, or kill them, or form militias, no – let them build the country.

The presence of an occupation doesn't mean we do nothing. If I don't make a constitution it means I can do nothing; I'll have no law, no army, I can't do anything, no economy – so if we really want to fight this occupation, and we're honest, honourable people who love their country, we have to work to build the Iraqi state.

Iraq – You CAN help with some positive things there.

This information was put together by
ACT TOGETHER - Women's Action for Iraq
PO BOX 34728, London N7 6XE
+44 (0)20 7272 9324
www.acttogether.org

CONTACTING PEOPLE IN IRAQ

There is a great deal in the media about Iraq. Most of the information we get, however, tells us very little about how people are actually living and what else is going on besides the endless violence of both the occupation and the so-called 'insurgency'. Despite extraordinarily difficult circumstances, there are new projects, new grassroots initiatives.

We, from Act Together, are invited to speak at meetings about our group and about Iraq, and we are often asked what else people can do besides lobby their MPs and go on demonstrations. Iraq has been isolated from the rest of the world by 13 years of the most comprehensive sanctions in history and, now, by the occupation and chaotic violence. To be able to exchange views and information with people outside, to co-operate or collaborate on projects with them, to feel a sense of solidarity and support, is very important for people in Iraq at the moment. We have, therefore, compiled a very partial initial list of grassroots organisations based in Iraq or working there and individuals. Please contact them if you are interested in supporting their work.

Women's Will

An Iraq-based NGO, who are not linked to a particular political party. They run courses for women on education, health, employment, rights, etc. and publish a monthly journal called Women's Will, where they discuss the difficulties facing women under occupation and the daily struggle for basic needs, the situation of women prisoners, the disappeared and missing, constitutional issues facing women, etc.

Contact: Hana Ibrahim, chair and journal editor
Email: womenwillbody2004@yahoo.com
Tel: 009641 5153077/ 5154979/ 5419662

The Iraqi Women's League

The Iraqi Women's League (UK branch) held workshops in London on women's issues concerning the drafting of the new Iraqi constitution. They set up women's groups in different parts of Iraq to discuss the constitution and lobbied the drafting committee on behalf of women's rights.

Contact: Souad Al Jazairy
Email: sjazairy@hotmail.com

Freedom Voice Society for Human Rights.

This Baghdad based organisation is a member of the Council for Human Rights and deals with general human rights abuses against Iraqis.

Contact: Abdul Wahab Al Obeid (director)
Email: freedom_voice1943@yahoo.com

Post Traumatic Stress Disorder Programme

A project started by a group of Iraqi psychiatrists. Based in Baghdad and other parts of the country, the programme aims to train teachers and parents to deal with post-traumatic stress in children in their care. Everyday Iraq's children witness death and extreme violence, they suffer terrible losses and live in a dangerous world where their parents can do little to protect them. There are only 60 psychiatrists in Iraq and only now are some specialising in children.

There are a few child psychiatric clinics. But there is much more demand than there is supply.

Contact: Dr. Said Al-Hashimi
Email: saidalhashimi@yahoo.com

Medical Aid for Iraqi Children

This UK based charity was set up in 1995. For 10 years during sanctions and through to the present, the charity has sent medicines and medical equipment to Iraq. They work closely with

doctors in Iraq and have recently brought some to the UK for additional specialised training. They track every one of their shipments to ensure arrival at their intended destination and London-based workers for the charity visit Iraq to find out what is needed.

Website: www.maic.org.uk
Email: info@maic.org.uk

Dr. Jawad Al Ali is a child oncologist in Basra. He is studying the effects on children's health of Depleted Uranium, which was dropped on the southern part of the country in the 1991 and again in 2003. There has been a marked increase in childhood cancers and severe birth deformities in that area. Dr Al Ali is also investigating the effects that other kinds of pollution are having on the health of children in the city and its environs. This pollution is also the result of the recent wars and sanctions.

Email: jawadalali44@yahoo.com

INCIA International Network of Contemporary Iraqi Artists

The London-based network puts on exhibitions of Iraqi artists, provides contact information with Iraqi artists and seeks to facilitate collaboration between Iraqi and non-Iraqi artists.

Contact: Maysaloun Faraj.
Email: info@incia.co.uk

Iraqi Writers Union

An important Iraq-based group representing writers - provides a forum for exchange of ideas & information.

Contact: Hanon Majeed. (Press officer)
Email: hanon-39@maktoob.com or hanon-39@maktoob.com

Independent Film & Television College - <http://www.iftvc.org/>

This free-of-charge film-training centre in Baghdad was started by 2 London-based Iraqi filmmakers in 2004, to help young Iraqis make their own films. The college offers one, two or three-month intensive courses in camera, sound, lighting, documentary and short fiction film production. Because of the security situation and piecemeal funding from charities, trade unions and individuals, progress was slower than might be wished, they have been able to run a number of courses and are continuing to work, though the security situation now means bringing groups of students to Jordan or Syria. In autumn 2005, they had first completed student films which have now been shown in many festivals around the world.

Contacts: Kasim Abid, Maysoun Pachachi
Emails: kasimabid@yahoo.co.uk, maysoun@oxymoronfilms.demon.co.uk

Jubilee Iraq

This UK based group is working to cancel Iraq's debts and are involved in lobbying the UN, US and Iraqi governments and political parties. It has extensive links with groups in Iraq and with those working on the issue of debt all over the world.

Contact: Justin Alexander
Email: justinalexander@gmail.com, justin@jubileeiraq.org

Some individuals:

Hana Edwar
Secretary of Amal NGO, one of the few NGOs still doing humanitarian work in Iraq
Tel: 00964 (0)7901919286

Adel Al Tai
Painter & Photographer, Baghdad
Tel: 00964 (0)7901730881

Dr Amar
Head of Cinema Without Borders
The Academy of Fine Arts,
Baghdad
Tel: 00964 (0)7901443062

Thikra Monem
Ballet Teacher, Baghdad
00964 (0)7901664778

Adil Hameed Raheem,
Director Cultural Relations &
Public Affairs Dept. University of
Basra
Tel: Mobile 00964 7891019400
Home 00964 40624042
University 00964 40412328

About WLUML

Women Living Under Muslim Laws is an international network that provides information, solidarity and support for all women whose lives are shaped, conditioned or governed by laws and customs said to derive from Islam.

The network aims to increase the autonomy of women by supporting the local struggles of women from within Muslim countries and communities and linking them with feminist and progressive groups at large; facilitating interaction, exchanges and contacts and providing information as well as a channel of communication.

Occasional Paper 15



عوانيتي زبيراش مسام قوانيبي
Women living under muslim laws
النساء في ظل قوانين المسلمين
Femmes sous lois musulmanes

WLUML

PO Box 28445, London, N19 5NZ, UK

Email: wluml@wluml.org Website: www.wluml.org