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IRAQ - CONTINUING CHALLENGES FOR WOMEN'S RIGHTS

By Rebecca Murray

BAGHDAD, Sep 13, 2011 (IPS) - When a middle-aged mother took a taxi alone from Baghdad to Nasiriyah, about 300 kilometres south earlier this year, her 20-year-old driver stopped on the way, pulled her to the side of the road and raped her. And that began a telling legal struggle.

"She is not a simple case," says Hanaa Edwar, head of the Iraqi rights-based Al-Amal Association, established in Baghdad after the U.S.-led invasion in 2003.

"She came from an affluent family, held a professional job, and told her family about the rape. They had the police arrest the driver," Edwar says. "Then she came to us for legal help. She said, 'I want my rights back, and what he has done to me, he will do to others. I want this perpetrator punished'."

The rape victim lost her case. "The judge had a male mentality. They think you should not make a scandal, but be silent. He prompted the accused with questions like, 'You did this when you were drunk – yes?' This is how they intimidate," Edwar said. "Now we are making an appeal."

The Al-Amal Association is one of a handful of women's advocates in Iraq fighting for female equality in marriage and divorce, and opposing a draconian penal code that favours perpetrators of domestic abuse and of honour killings within households.

According to United Nations statistics, one in five women from 15 to 49 years old has suffered physical violence at the hands of her husband. "The real numbers are likely higher," says UNDP. "Reporting of gender-based violence cases is generally low, as women fear social stigmatisation and lack confidence that authorities will investigate complaints."

"The deterioration of security has promoted a rise in tribal customs and religiously-inflected political extremism, which have had a deleterious effect on women's rights both inside and outside the home," says a Human Rights Watch report published this year. "Iraq's penal code considers 'honourable motive' to be a mitigating factor in crimes including murder. The code also gives husbands a legal right to discipline their wives.

"For Iraqi women, who enjoyed some of the highest level of rights protection and social participation in the region before 1991, these have been heavy blows."

Although Iraq's 1959 sectarian-based personal status laws that govern marriage, divorce, custody and inheritance through the judicial system heavily favoured men, hard-fought amendments had moderately improved women's rights.

But when Iraq's devastating wars and international sanctions smashed the country's

infrastructure, Saddam Hussein courted religious groups to maintain power, reversing some of Iraqi women's hard-won gains.

After Hussein's overthrow in 2003, religious authorities' attempts to replace the inequitable personal status law with Sharia law were successfully fought off by female advocates. However, Article 41 in the new Iraqi Constitution has again introduced family law for religious interpretation by different sects.

Al-Amal's Hanaa Edwar explains the new reality. "There is a lot of marriage and divorce that takes place outside of the court. While the law says 15 years is the minimum age for boys and girls to marry with the consent of their fathers and a judge, those under 15 years are marrying outside the court. Religious men will take about 200 dollars for it."

"The war has raised the violence in the state," says Sundus Hasan, director of the Woman's Leadership Institute (WLI). "When there is a war, it always reflects on the people and families.

"Before 2003 every family sent all to schools," she says. "Now everyone has to make sure about protection for girls to go to school. Sometimes it costs too much. That is why early marriage is a new phenomenon in Iraq – with girls at 10 or 12 years old. The legal age is 18 years old, but nobody respects the law."

Hasan, who has been personally threatened by militias for her advocacy work, lost a good friend who was kidnapped and raped. "When her family paid her ransom, she returned home and called me. 'I am dying', she said. I told her to go to sleep, that everything would be okay. But the next day when her family found her, she had killed herself in her room. I feel certain that when she returned she saw sadness in the eyes of her husband and family. I am sure she saw herself in the same light."

WLI is working to integrate critical international treaties like the Committee on the Elimination of Discrimination against Women (CEDAW) – of which Iraq is a signatory - into Iraqi legislation, and with others to push through a draft law against gender-based violence.

A positive starting point is the 25 percent quota for female parliamentarians. However, Hasan says, the Ministry of Women's Affairs is very weak, and there are only two female ministerial posts out of 48, counting the state ministries. "Before there were six, then four, now two. It's going the wrong way."

Amnesty International warns, "Even if greater stability and peace return soon to Iraq, levels of violence against women may remain high if the authorities continue to allow men to kill and maim women with impunity, and if gender segregation and discrimination against women become further entrenched."

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