Aasalaamu Aleikum. My name is Amirah al-Chalabi. I am an Iraqi, a woman, and a lawyer. These labels which I give myself are laden with meaning, as will become clear. The calendar inches its way towards the new year, 2007, but in Iraq, we are not really in a celebratory mood. My heart feels heavy, tense, and anxious. I worry for my people, but mostly for my women. I say “my” people, “my” women, because we are together experiencing the effects of war, conflict, violence, and oppression. The outcomes of which affect us all. But more than that, I am calling on all Iraqi women to recognize that there is a thread which connects us, despite another, for some more salient characteristic: religion. We must collectively demand our rightful place at the helm of this nation if the policies it embraces are to reflect our best interests.

Iraq is standing on the precipice of another day in our tangled history of gender relations. Or perhaps we have already jumped over.

I grew up in a moderate Shi’a family in the Yarmouk neighborhood of Baghdad, located in central Iraq. Yarmouk used to house many members from Saddam Hussein’s Ba’athist regime, although it also contains a small Shi’a population, of which my family is counted amongst. Born in 1946, I have experienced the full trajectory of women’s rights in Iraq. The year I was born, the Women’s College opened in Baghdad, and offered four-year degrees in teaching that produced a ready cadre of teachers to instruct Iraqi girls how to be good wives and mothers, maybe even secretaries. My parents expressed a strong desire for me to attend the Women’s College, but I developed other ideas. At the age of twenty-two, I was one of only a handful of female graduates from the Baghdad University College of Law. The Baghdad University College of Law is steeped in tradition, founded in 1908 when Iraq still formed part of the Ottoman Empire. I specialize in areas of law concerning women’s rights, one of a dwindling number of such lawyers. Since the 2003 U.S.-led invasion, and especially since the ratification of Iraq’s new constitution in October 2005, many of my colleagues have fled the country.

Religious extremists who seek to impose strict interpretations of Shari’ah law have targeted acts of violence towards lawyers that defend women in custody battles, or who accept cases concerning so-called “honor killings.” According to the Iraqi Lawyers Association, thirty-eight lawyers have been killed since October 2005, with hundreds more reporting violence and intimidation. Soon, those of us left will be unable to cope with the number of requests we receive from women seeking our help. Therefore, structural inclusion of women’s interests from the top-down is vital to the health and safety of women in Iraq. This, however, is where we presently face a major roadblock. One cannot fully understand the position of women in Iraqi society without realizing how our status and participation has changed according to the priorities of the ruling government.

In March 2003, coalition forces entered Iraq, and brought with them the promise of improving the lives of Iraqi women. United Nations Security Council Resolution 1438 encouraged this hope. It described the need for a “rule of law that affords equal rights and justice to all Iraqi citizens without regard to ethnicity, religion, or gender.” It will take more than this, though, to change the embedded patriarchal traditions of Iraqi society. Parallel with intermittent breakouts of war, enduring economic sanctions, impoverishment, and associated feelings of vulnerability, Iraqi men frequently seek to consolidate their fragmented power by wielding it over Iraqi women. This often means the imposition of restrictions on women’s freedom and movement, or conversely, the provision of rights in the name of...
national advancement. Nonetheless, Iraqi women have had to accept whatever rights men accorded them.

Historical Perspective

Following World War II, Iraq made great strides towards gender equality. Women accessed a range of educational and employment opportunities, especially in Baghdad. We could more or less dress as we pleased. In the rural populations outside of Baghdad, however, women experienced a more insurmountable gender hierarchy. The 1959 Personal Status Law represented a milestone for Iraq and a symbol of hope for gender equality. The Personal Status Law removed jurisdiction over family matters from the ulama (Islamic scholars) and allocated them to the civil judicial system. As such, the law prescribed equal inheritance for men and women, restricted forced marriage, made provisions to enforce child support, and discouraged polygamy.

The Ba’ath Party first came to power (briefly) in 1963 and included gender equality in their political platform. After returning to power in 1968, they drafted a provisional constitution that ensured equal treatment of women and men in the eyes of the law. Nevertheless, the Ba’athists altered the section of the Personal Status Law that addressed inheritance, decreasing women’s portion to half that of men, thus reflecting Islamic law.

Women made significant gains in the 1970s and 1980s. Substantial efforts towards literacy and education resulted in a 75% literacy rate amongst women. In 1974, the state guaranteed employment for all university graduates. During the Iran-Iraq War (1980-1988), women joined the Iraqi labor force in huge numbers to replace the men that were away fighting. Women obtained the right to vote in 1980, and by 1987 were eligible for political office. While important, these gains did not stem from true recognition of gender equality, but from emergent Iraqi nationalism and the need for all people to contribute to the success of the country.

When Saddam Hussein assumed leadership of the ruling Ba’ath Party in 1979, he wrote Article 8 into the Iraqi constitution which allowed for greater imposition of conservative laws. Article 8 granted the Revolutionary Command Council, Iraq’s former legislative body, the right to issue new laws even if they contradicted existing constitutional laws. A more devastating effect resulted from the authorization of the abuse of women to extract information from political prisoners. Members of the Iraqi secret police imprisoned, raped, and murdered female relatives of dissidents, and used videotapes of the atrocities to terrorize the captured dissidents.

Prior to the Gulf War of 1991, women represented 23% of Iraq’s official labor force, primarily employed in the public sector. Subsequent to the war, the situation for most Iraqis rapidly deteriorated. The renowned “Oil for Food” program distributed rations to 60% of Iraq’s population. The sanctions imposed by the United Nations contributed to economic collapse, which engendered mass unemployment, impoverishment, and widespread civil instability. Like returning to a familiar habit in a time of crisis, women were rendered inferior subjects to male authority. Women lost their access to status when they lost their jobs and their ability to pursue education. Families could no longer afford to send all, or any, of their children to school, and daughters were usually last in line. By 2000, female literacy decreased to 25%. Iraq started to exhibit an alarming pattern contrary to most nations: mothers are often more educated than their daughters and less socially-conservative.

After the Gulf War, Saddam Hussein relied on neighboring Arab states for support. To appease them, Hussein affirmed Islam as the primary source of moral authority and set forth patriarchal interpretations of the Qur’an. He introduced Article III of the Iraqi Penal Code which exempted

References:

12 Ibid., p745.
from punishment men accused of “honor killings.”

Honor killings are inflicted on women who are thought to bring dishonor on their families, usually from pre-marital or extra-marital sex, although also from being a victim of rape. Suspicion of such acts is often sufficient for justifying the harsh penalty. To reinforce Sunni Islam, Saddam Hussein gave greater control over parts of western Iraq to Sunni religious groups, including Ramadi, Fallujah, and Tikrit. This effort coincided with his brutal repression of Shi’a Muslims, located predominantly in the southern part of Iraq, for their uprising at the end of the Gulf War.

Over the past decade, women have seen their rights substantially diminished. The ease and extent to which this occurred highlights the conceptual disparity between rights and empowerment. The politicization of gender relations leaves women in a very vulnerable position. Whereas Saddam Hussein treated restrictions on women’s rights as a means of garnering cooperation from neighboring countries, religious groups today position these restrictions as the goal itself.

The aforementioned history represents a brief sketch of the gender milieu that existed when coalition forces entered Iraq in March 2003. The capture of Baghdad on April 10, 2003, by coalition forces, and the establishment of the Coalition Provisional Authority (CPA), marked the beginning of a new period of uncertainty for this fragile nation.

**The U.S.-led Occupation and Consequences for Iraqi Women**

With UN Security Council Resolution 1483 as guidance, the CPA attempted to improve women’s status by implementing education and rights awareness programs, as well as job skills training. While this grassroots approach is commendable, the CPA appointed a mere 18% of Iraqi Governing Council seats to women, and no women were appointed to the committee responsible for producing the new draft constitution. Even though some of the criticism directed towards the CPA for not including


greater female political representation is warranted, we must accept that their foremost objective is securing the nation. In doing so, we Iraqi women must form a collective front to demand adequate political representation. Otherwise, we leave ourselves vulnerable to those who denounce gender equality as another form of “neocolonialism.” It is imperative that women’s rights not be intractably tied to the foreign occupation, because when the occupiers leave, our rights might leave with them.

In the post-war chaos, a marked trend has emerged where violence against women increases, and instances of militarization infiltrate constructions of masculinity. The absence of law following the 2003 invasion allowed misogynistic practices to occur unabated in Iraqi society. The CPA’s de-Ba’athification policy, which resulted in the dismantling of the Iraqi police force, meant that most crimes went unpunished, including – and especially – crimes against women. As the ensuing instability caused Iraqi citizens to turn to their religious groups for order and protection, I sensed that this would ultimately translate into a greater authority for political Islam. Within hours after the fall of Baghdad, large numbers of Shi’a Muslims poured onto the streets in celebration. The Shi’a beat their chests in a fierce display of allegiance to their revered Imam Hussein and to protest at the ill-treatment by Saddam Hussein’s Sunni regime. As I watched the crowd march, I noticed the absence of any sense of national unity, and the overwhelming presence of an oppressed religiosity. Before long, Islamic political parties started to form, such as the Shi’ite Religious Authority, led by Grand Ayatollah Ali al-Sistani. Even though al-Sistani does not support strict implementation of Shari’ah law, he does believe that Islam should inform public policy. Of greater concern is that the more extreme Shi’ite Islamic groups have used al-Sistani’s influence to generate greater support for Islamic authority.

The exclusion of women from the official political process has channeled many towards the non-governmental organizations (NGOs) that are primarily based in Baghdad. I joined the


Organization of Women’s Freedom in Iraq (OWFI) when the group’s founder, Yanar Mohammed, returned to Iraq from Canada in 2003. Originally called the Defense of Iraqi Women’s Rights, OWFI members work to ensure that the rights of women are included in the reconstructed state apparatus. OWFI supports minimum quotas for female political representation because we understand the history of post-conflict challenges to women. If women are not involved from the very beginning and conservative voices establish dominance, it will be most difficult to reverse this pattern later on.

One particular incident that occurred in Najaf in August 2003, motivated me to join the ranks of OWFI members. Najaf is a small and predominately Shi’a town south of Baghdad. American Lieutenant Colonel Christopher Conlin attempted to recommend Najaf’s first female lawyer, Nidal Nemer Hussein, for appointment to the judicial court. A small demonstration against the right of a female to attain judgeship caused Lt. Col. Conlin to abandon Nidal Hussein’s appointment indefinitely. Thus, women’s political participation was sacrificed to appease a vocal conservative minority.

Southern Iraq

Few NGOs operate in southern Iraq, and those that do often face threats of violence. Reports have surfaced, from this mostly Shi’ite region, of females suffering acid burns for not wearing the hijab (veil). Rarely now are women seen outside the home without the hijab, but the insecurity keeps many women confined to their homes. Nonetheless, the overthrow of Saddam Hussein resulted in southern Shi’a women possessing greater access to religious education. Unfortunately, many women have internalized the highly patriarchal form of Islam present in this region. Their Qur’anic study focuses on learning Shari’ah law instead of evaluating the patriarchal interpretations they received. Thus, we notice that southern Iraqi women are not likely to struggle for gender equality and in a protest in Baghdad in January 2004, actively demonstrated against it. In January 2004, Shi’ite president of the Iraqi Governing Council, Abdel Aziz al-Hakim, notified Council members of his plans to introduce Resolution 137, which would repeal the 1959 Personal Status Law and transfer family law matters to religious courts. In response, Kurdish women and women from Baghdad protested against the repeal. Shi’a women from southern Iraq, in solidarity with their religion, demonstrated in support of Resolution 137. Council member Dr. Raja Habib Khuzai led the resistance to the resolution, which was ultimately defeated with the help of moderate Islamic leaders. Despite this victory, women’s rights activists knew it indicated the emergence of a new power base in southern Iraq and signaled greater challenges ahead.

In order to better understand the religious and gendered power dynamics in southern Iraq, I travelled to Najaf to meet with human rights campaigner, Umm Salam. Umm Salam works to eradicate female illiteracy in her community so that women can stake out some independence from their husbands. Recently, Umm Salam has become the target of assassination attempts, which prevent her from carrying out her work. She described the senseless murder of Dr. Khavla al-Tallal, a woman shot to death for the “crime” of being a professional working woman. She says that ever since the 2003 invasion, women in her area have suffered greatly from the chaos and lawlessness. Families are afraid to send their daughters to school. Further south in Basra, women attempting to enter the university are harassed at the gates by gangs of men if they are not veiled. OWFI continues to collect evidence that suggests the rape of women is being used to settle scores in the budding sectarian war.

In my conversation with Umm Salam, we discussed the difficult road ahead if Iraq is to emerge as a moderate nation. She shared the results of a study conducted in 2003 on women’s health and human rights in three Shi’ite towns in southern Iraq. The study describes the severe acts of violence Saddam Hussein’s Ba’athist regime perpetuated against the Shi’a in southern Iraq, from 1991 to his

43 Ibid, p 40.
46 Ibid.
overthrow in 2003. In total, 47% of survey respondents reported that at least one member of their household experienced “torture, killings, disappearances, forced conscription, beatings, gunshot wounds, hostage takings, and forced ear amputations.” Such atrocities committed by one religious sect against another have important implications for the future of national unity and stability. However, the violence also impacts how the role of women has evolved in Shi’a communities. The survey team gauged societal attitudes on a wide variety of issues concerning women, using a sliding scale ranging from “extremely important,” and “very important,” to “important” (see figure 1 below).

Figure 1: Importance of Women’s Civil and Political Rights and Basic Human Rights for Community Health and Development. Source: Amowitz et.al, 2004 p 1478.

Figure 1 shows that basic human rights rank far higher than women’s civil and political rights. This might be understandable in a region subject to ongoing bouts of violence, where immediate physical needs often trump other concerns. However, women’s participation in the civil and political process correlates with their ability to tend to the immediate needs of their local community, and to ensure that access to healthcare, education, and employment is available to all.

In other data revealed by the study, 54% of women agree that men have the right to beat a disobedient wife; only 47% of women believe that any woman has the right to refuse sex, and this decreases to 39% in the context of marriage. Such data exposes the extent to which many women within the conservative Shi’ite tradition have internalized a highly detrimental gender hierarchy, and this helps to account for their demonstration against the Personal Status Law. Religious adherence often acts as a source of comfort and moral guidance, especially in the face of violence and death. The Ba’athist perpetuation of violence and discrimination, and resulting impoverishment, reinforced communal solidarity with Shi’a religious leaders whom they turned to for guidance and protection.

The Emergence of Political Islam

When the Iraqi Governing Council signed the draft constitution on March 8, 2004, it included the requirement that women comprise 25% of the future Iraq National Assembly. In January 2005, Iraqi citizens elected women to 31% of the National Assembly seats, exceeding the quota. However, half of the women elected belong to the conservative Shi’ite-led United Iraqi Alliance which actively favors Shari’ah law. A quota for female political participation does not necessarily translate into “progressive gender legislation.”

On October 15, 2005, the people of Iraq approved the draft of the new constitution, a baffling document which tries to unite two very different governance principles: those of a secular democracy and those of

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Islamic law. The preamble contains androcentric bias with references such as: “Verily we have honored the children of Adam” and “We are the sons of Mesopotamia.” In both statements, women are made invisible. Moreover, while the preamble specifically refers to Islam and Islamic ethnic groups (e.g. Kurds and Turkmen), it groups Christians and non-Muslim ethnic groups into the vague “other” category. Further into the constitution, Article 41 specifically sets forth the right of Shi’ite tribes to participate in Husseinya rites. There is no doubt that this constitution caters primarily to Muslim males. Moreover, the special consideration afforded to Shi’ite rituals reflects the commanding presence held by Shi’a members of Iraq’s government.

The governance contradictions exist from the very beginning. Article 1 announces Iraq as a “democratic, federal, representative republic,” whereas Article 2 states that Islam is “a basic source of law.” Notably, the inclusion of Islam as “a” source rather than “the” represented a serious contention for conservative Shi’ite members of the constitutional drafting committee. Article 2 also states, firstly, that no law can pass which contradicts Islam, and, secondly, that no law can pass which contradicts the principles of democracy. It remains unclear which comes first, Islam or democracy. Interpretation may be left to whoever controls the government, and according to the specific agenda they wish to enforce.

The outlook for women is bleak. Article 39 achieves what the former Iraqi Governing Council president could not: repeal of the Personal Status Law. This article asserts that “Iraqis are free in the adherence to their personal status according to their own religion and sect, belief and choice, and that will be organized by law.” Article 39 relegates family matters to religious authorities, but is unclear if the husband and wife are from different regions or sects, which tradition prevails. In this conservative climate, the male will be privileged to choose whichever authority is favorable to his cause. Article 90 explicitly indicates that Supreme Federal Court Judges must be experts in both Shari’ah and secular law, while Article 91 accords to them the responsibility for interpreting the constitution. Article 151, which sets forth the mandatory 25% female quota for the Iraqi National Assembly, is found in the final section titled “Transitional Guidelines.” This indicates that Article 151 may not form a permanent feature of Iraq’s constitution.

Looking Ahead

The foundation for a progressive, egalitarian society can be found in Iraq’s modern history. Women of my generation who benefitted from prior nationalist objectives demonstrate the education, wisdom, and skills that are essential to the restoration of this nation. We must act now. We are in danger of leaving behind a generation of women that do not know freedom. Of course, our time was not perfect. But it is what we have to work with, and at one time, Iraq represented a model that other Arab countries aspired to.

As a lawyer for women, my focus now shifts to the Iraqi constitution. While it is laden with references to the primacy of Islam, it leaves a crack in the door for a more egalitarian interpretation. I plan to convene an alliance of skilled lawyers to discuss and debate the new constitution in order to collectively ensure that the democratic features remain meaningful and applicable. We must establish a social and political presence to remind the National Assembly and Supreme Federal Court members that they cannot ignore the democratic features of the constitution. Is this a dangerous mission? Unfortunately, yes. But the risk to us now pales in comparison to the risk that all Iraqi women will face if we do nothing.

Democracy means more than holding periodic elections. Democracy means structural inclusion of the means necessary for ensuring the health and well-being of all people: women, men, Muslim, non-Muslim. It is imperative that legislative and judicial members prioritize the rights of women above Islamic doctrine. Nothing less than women’s lives are at stake.

REFERENCES


