

# Working Together to Address Violence Against Women and Girls in Iraqi Kurdistan



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**Acronyms:**

General Directorate for Tracing Violence against Women (GDTVAV)

Gender Task Force Legal Working Group (GTF-Le)

Internally Displaced Person (IDP)

International Rescue Committee (IRC)

International Rescue Committee Iraq Country Program (IRC Iraq)

International Non-Governmental Organization (INGO)

Kurdistan Regional Government (KRG)

Kurdistan Bar Association (KBA)

Kurdish Judicial Council (KJC)

Ministry of Interior (MOI)

Ministry of Justice (MOJ)

Non-Governmental Organization (NGO)

United States Government Regional Reconstruction Team (RRT)

United Nations Assistance Mission to Iraq (UNAMI)

United Nations Population Fund (UNFPA)

**Methodology:**

This report is based on four years of research, documentation, and programming by the International Rescue Committee's Iraq Country Program (IRC Iraq) examining and addressing the obstacles faced by women and girl victims of violence in Iraqi Kurdistan when seeking legal protection. It is a compilation of internal documents including meeting minutes, IRC donor reports, and donor-funded research and assessments that took place between 2008 and 2012. In December and January of 2011, the IRC reviewed the documents and conducted interviews with the Kurdistan Regional Government (KRG) and non-government actors including three police officers, two representatives of the KRG's General Directorate for Tracing Violence Against Women (GDTVAV), one judge, one judicial investigator, one UN representative, and three female Iraqi Kurdish lawyers defending women victims of violence. The interviews provided insight into the impact of an IRC-led collaborative effort to address gaps in the law or its implementation for responding to violence against women and girls, the progress made, and challenges that lie ahead. A synthesis of the IRC research and documentation and the findings of the review and interviews were analyzed and compiled into this report to assess next steps for responding to the human rights crisis.

**Acknowledgements:**

The IRC would like to thank all of the members of the Gender Task Force- Legal working group for their important work including the IRC Iraq Women's Protection and Empowerment Project and Legal Sector Team, Al-Mesalla Organization, ASUDA Organization, Popular Aid Organization (PAO), Gender Equality Organization, Democracy and Human Rights Development Center (DHRD), Kurdistan Bar Association (KBA), two investigative judges from the Erbil Investigative Court, two general prosecutors from Erbil and Sulaimaniya and three judicial investigators from Erbil, Heartland Alliance, Relief International, the office of the US Government Regional Reconstruction Team (RRT), and the United Nations Assistance Mission to Iraq (UNAMI).

The IRC is also deeply thankful for the funding it has received from a variety of donor governments over the past four years to help address violence against women and girls in Iraqi Kurdistan. These include the Australian Agency for International Development (AusAID), the Canadian International Development Agency (CIDA), the U.S. Agency for International Development's Office on Foreign Disaster Assistance (OFDA), and the UN Population Fund (UNFPA).

The IRC would also like to thank the office of the UN High Commissioner for Refugees and the U.S. State Department's Bureau of Population, Refugees and Migration (BPRM) for program funding to address women's protection and empowerment issues in Baghdad. We hope that this case study can serve as a model for future advocacy around women's issues throughout Iraq.

## **Executive Summary:**

This report provides an overview of the types and levels of violence suffered by females in Iraqi Kurdistan, the laws in place to protect them, and the important work of the government of Kurdistan (KRG) and Kurdish and international agencies to improve law enforcement in cases of violence against women and girls. It is a case study in coalition work and highlights the importance of coordinated engagement among local and international non-governmental organizations (NGOs) and between the NGO community and governments when dealing with violence against females. The International Rescue Committee (IRC) hopes this report will inform future efforts to combat violence against women and girls in Iraqi Kurdistan, in other parts of Iraq, and throughout the region. If Iraq and the broader Middle East and North Africa region are to succeed in promoting an agenda of peace, stability and rule of law, women must be able to realize their human rights and remain engaged in the process of change.

Females in the Kurdistan region endure discrimination, inequality, social exclusion and many types of violence, including honor-based killings, domestic violence, rape, sexual exploitation and female genital mutilation. Moreover, women who experience violence and choose to file a case with the law enforcement system may face a number of barriers. As in many countries, there are few female law enforcement officers in Iraqi Kurdistan leaving women to report rape or abuse to male officers, which can be highly intimidating.

The KRG has, however, made significant, and possibly historic, efforts to protect and promote the rights of women and girls over the past five years. As of 2012, Iraqi and KRG law both provide many of the protections necessary for women to enjoy safety and security. All too often though, law enforcement officials fail to uphold the law, because they are uninformed or because cultural practices and traditions are allowed to trump human rights, making it unlikely that women will report abuse, and thereby further contributing to the cycle of violence.

In response to a request to the International Rescue Committee (IRC) by the government of the KRG to address violence against women and girls, the IRC Iraq Country Program (IRC Iraq) led six coordination meetings that brought KRG judges, investigators, lawyers, Kurdish and International NGOs, the United Nations, and representatives of the US Government's Regional Reconstruction Team (RRT) together between May and December 2011. This initiative was referred to as the Gender Task Force- Legal (GTF-Le) working group, and facilitated the exploration of ways to improve the lives of women and girls by identifying gaps or irregularities in Iraqi law and its implementation when dealing with violence against them.

Challenges abound in discussing the rights of women and girl victims of violence in Iraqi Kurdistan, but the GTF-Le broke ground by getting government officials and law enforcement agents to understand the devastating consequences of violence against women and girls for women, communities, and the broader rule of law. Through the use of facilitated discussion, hypothetical case studies, and interactive dialogue, GTF-Le participants were better able to understand what the legal process looks like for female survivors and to identify strategies for addressing the obstacles females face when seeking protection under the law.

Specifically, the GTF-Le discussions and subsequent advocacy efforts helped focus the government's attention on two critical components of Iraqi procedural law not adhered to by most law enforcement officials and without which a female survivor's chance of finding legal protection diminishes greatly. The *first* is that the proper law enforcement agent must initiate the investigation. Under Iraqi law, this is a judicial investigator with a law degree and legal powers to take sworn testimony. They investigate the crime, and then make recommendations to the judge on pressing charges. The *second* is that any accused person, male or female, must have legal representation at the start and throughout an investigation. These components of due process are particularly critical for women and girl victims of violence, who are frequently met by the criminal justice system with hostility and suspicion, and often end up being falsely charged with a crime because they are perceived somehow as being responsible for the violence inflicted on them.

In August 2011, as a result of GTF-Le advocacy efforts and a sign of the commitment of the KRG to address violence against females, the President of Kurdistan, Masoud Barzani, issued a decree highlighting the importance of the Iraqi Procedural Law and called for two essential procedures:

- The provision of lawyers to anyone under investigation;
- Orders and regulations to be put in place to ensure that procedural law is followed.

The work and impact of the GTF-Le demonstrates that significant progress can be made in addressing violence against women and girls even in complex environments when civil society actors engage with the government.

Some issues identified by members of the GTF-Le as requiring attention to ensure continued progress are:

- 1) Oversight and accountability mechanisms should be put in place to ensure implementation of the law by law enforcement agents;
- 2) Sufficient resources should be allocated to strengthen the law enforcement system and more specifically to ensure that judicial investigators who play a critical role in the investigative process have sufficient budgets;
- 3) Government appointed lawyers that represent women and girl victims of violence free of charge should be better paid to attract high quality lawyers;
- 4) Donor governments should remain aware of the KRG's current will to address the crisis of violence against women and girls and support its outreach to civil society.
- 5) International support for local and international NGO programs to address violence against females is critical and should continue.

## Introduction

As in many other global contexts, underreporting of violence against women and girls, inefficient data collection and management, and inadequate service provision for survivors make it impossible to obtain precise information on the prevalence of the crime in Iraqi Kurdistan. This report provides a snapshot of the types and levels of violence suffered by females in Iraqi Kurdistan, the laws in place to address it, and the important work of the KRG and Kurdish and International NGOs to combat it. Iraqi Kurdish women and civil society have been doing this hard work for decades, through various channels. But the Gender Task Force-Legal (GTF-Le) coordinating body has helped elevate and propel that work, resulting in significant progress.

With a broader and longer-term organizational goal of building capacity to mitigate violence against women and girls, the IRC designed the GTF-Le to bring together relevant government and non-government actors and/or law enforcement officials to identify and address gaps in the law or its implementation. This is being accomplished by focusing on two essential components of Iraqi procedural law.

This report is therefore also a case study of the benefits of advocating in numbers, or how to bring together people with power and expertise to help address a problem. The report will also demonstrate that despite the significant efforts made by the KRG to engage civil society and the international community to combat violence against women and girls, much more must be done to ensure that the hard work of the GTF-Le is followed by concrete action.

## Violence against women and girls in Iraqi Kurdistan

*“Sometimes a woman can’t come to the police station to report violence because culturally she feels she cannot tell anyone about the violence she has suffered. Some victims can’t read or write and don’t know what their rights are or don’t know where to report their cases. The culture also affects police, judges, and judicial investigators. Often these officials don’t act quickly to file a complaint because they fear it could split the couple up, so they tend to try to mediate and then send the couple home.”* Chief of a police station in Erbil

Violence against women and girls in Iraq is an extreme and chronic problem and often happens at home, at the hands of husbands, fathers, brothers, sons, and male extended family members. More than one in five (21%) women in Iraq between the ages of 15 and 49 has suffered physical violence by their husband; and one in three (33%) has suffered psychological abuse.<sup>1</sup> The vast majority of married women (83%) report being subjected to “controlling behavior” by their husbands, which includes insisting on knowing where they are at all times.<sup>2</sup> In a survey conducted by the United Nations Population Fund (UNFPA) and the Iraqi government, an astonishing 68% of young Iraqi men reported that they believe it is acceptable to kill a girl for damaging a family’s honor.<sup>3</sup> Violence against women and girls is widespread in

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<sup>1</sup> WHO/COSIT/KRSO/Ministry of Health Iraq Family Health Survey 2006-2007

<sup>2</sup> Human Rights Watch “at the crossroads – Human Rights in Iraq Eight years after the US-led invasion”, 2011, p.21

<sup>3</sup> UNFPA/COSIT/KRSO/Ministry of Youth and Sport Iraq National Youth Survey 2009

Iraq and the northern region of Kurdistan, which enjoys relative stability in comparison to the rest of the country, has made particularly concerted efforts to address the human rights crisis.

Iraqi Kurdistan is composed of numerous religious and ethnic minorities such as Assyrian Christians, Yazidi, Shawbak, Turkman, and Sabeian Mandeans as well as tens of thousands of displaced families from other parts of the country. Women's subordinate status in Iraqi Kurdistan, across all its minority groups and displaced families, affects almost all spheres of life, including education, employment and health and are not only due to religious, social, and cultural factors, but also to the historical experience of the region (see box on experience of Kurds in Iraq). For Iraqi IDPs living in Kurdistan the inequalities are exacerbated by the social and economic impact of displacement. They fled violence from other parts of the country during the past 40 years; the latest wave following the US invasion in 2003. There are between two and three million displaced persons in Iraq, with a large majority of those in the north and in female-headed households at risk of abuse. Displaced women from other parts of Iraq are particularly at risk, especially those who have been dislocated from their family of origin because they do not speak the Kurdish language and often cannot access supportive resources or protection.

Approximately 1,270 honor-based crimes were reported in Iraq between 2004 and May 2008; of these, 980 (or 77%) occurred in Iraqi Kurdistan.<sup>4</sup> "Honor killings," are usually perpetrated by male relatives and are perceived as a means of restoring a family's "honor" that has been tarnished by a woman's perceived "immoral" behavior. The practice of honor-based killing in Kurdistan has received significant attention at national and international levels, in part due to the egregious nature of the crime.

#### **A Long History of Violence in Kurdistan**

Conflict and violence have been central to the lives of Iraq's Kurds for the past 45 years. In 1963, the Iraqi Central Government initiated a 30-year military operation to suppress Kurdish efforts for autonomy. More than 4,000 villages were moved or destroyed and around 300,000 people killed, the worst of which was documented in the Anfal Campaign in which chemical weapons were used and Arabization and ethnic cleansing in Kirkuk. Limited autonomy was established in 1970, but relations with the central government remained strained. Following the 1991 uprising of the Kurdish people against Saddam Hussein, hundreds of thousands of Kurds were forced to flee the country, creating a humanitarian disaster. After the creation of the northern no-fly zone following the first Gulf War in 1991, Kurdistan began its final journey to autonomy. Civil disputes within Kurdistan continued through 1999 as political parties vied for leadership of the new government; contributed to by Kurdish political factions in Iran and Turkey. With the invasion of Iraq in 2003, Kurdish forces cooperated with the American military forces. After the fall of Saddam Hussein, with the restructuring of the national government, Kurdistan also worked to create a constitution as a federal region of Iraq. This long history of struggle for autonomy and conflict is likely a contributing factor in the violence seen in Kurdish families.

<sup>4</sup> "Gender-based Violence in Iraq: The effects of violence – real and perceived – on the lives of Iraqi women, girls, men and boys," UN OCHA and UN Information Analysis Unit, 16 June 2008.

The need to challenge traditional perceptions of honor and to protect women and girls at risk has been widely documented. At the same time, acts of violence, including female genital mutilation and domestic violence, represent significant threats to women and girls, causing severe physical and psychological harm to the victims. Shortly after the publication of a June 2010 Human Rights Watch report on female genital mutilation in Iraqi Kurdistan, a Kurdistan Health Ministry survey of 5,000 women and girls revealed that 41 percent had been mutilated. Follow up studies are being done to ascertain the prevalence of this practice by governorate, rural village and tribe in the region. This now illegal act is tremendously damaging to the long-term well being of families and communities.

Aside from small studies, population statistics on violence against women and girls are difficult to gather because of a combination of cultural and systemic obstacles women face in reporting such crimes. Statistics gathered by the KRG's General Directorate for Tracing Violence Against Women (GDTVAV), while incomplete, do however provide a window into the prevalence of violence. According to the GDTVAV, in 2010 there were a total of 2,485 registered complaints of violence against women in Kurdistan<sup>5</sup>. Of those registered complaints, almost half, 1,068, were categorized as beatings. Of the 234 beatings cases that occurred in the province of Erbil, 66% were the result of a "problem between wife and husband" and 6% were a result of problems with "family and relatives" comprising a total of 72% of cases resulting from family violence. Of the 834 beatings cases reported in Sulaimaniyah, 63% were a result of "family problems". Likewise, of the 1,123 registered complaints of violence against women in the province of Erbil in 2010, 70% of the "reasons or causes" behind the violence were related to "family and relative" or "family problems". These numbers clearly show the prevalence of interfamilial and domestic violence in Iraqi Kurdistan.

### **Existing laws and procedural gaps in efforts to address violence against women and girls Iraqi Kurdistan**

*"In order for women to access justice, laws have to be implemented, and the law must be viewed as a tool for protection, not harm."* Senior Legal Expert, IRC, Erbil, Iraq

While Iraq and Iraqi Kurdistan law provides many of the protections necessary for women to enjoy safety and security in their own country, those laws are often ignored or not implemented. All too often law enforcement officials fail to exercise their oaths to uphold the law, further harming survivors of violence and making it less likely that women will report abuse.

There is progress however. Iraq has ratified or acceded to several international treaties that provide a framework and standards for responding to violence against women and girls, including the Convention on the Elimination of Discrimination Against Women<sup>6</sup>, the Convention on the Rights of the Child, and the International Covenant on Civil, Cultural and Political Rights.

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<sup>5</sup> "The Statistics About Social Conditions of Women in Kurdistan," Annual Report 2010, Ministry of Interior, Directorate for Following Up Violence Against Women

<sup>6</sup> Reservations to certain provisions may limit the efficacy of the commitments that have been made.



The Iraqi and Iraqi Kurdistan Constitutions and laws promote and protect the status of women, proclaiming the equality of all Iraqis before the law without discrimination based on gender.<sup>7</sup> The Constitution also guarantees the rights to life, personal security, liberty and dignity, and prohibits “all forms of violence and abuse within the family.” Since 2003, Iraqi and Iraqi Kurdistan laws stipulate that anyone arrested has the right to a defense attorney in all phases of the investigation and trial. Likewise, every person must be treated with justice in judicial and administrative proceedings, and the Court is required to provide a lawyer at the expense of the State for any person accused of a crime who cannot afford one.<sup>8</sup>

The KRG has made important amendments to the criminal code (No. 111 of 1969) to bring it in line with the constitution and international standards, and has made efforts to protect and promote the rights of women and girls. For example, in 2001 the physical discipline of women by “male caretakers” was outlawed. A “male caretaker” may be a father, brother, uncle, husband or any other male considered to hold authority within the family or community. Likewise, in 2004 the Kurdistan parliament passed laws prohibiting reduced sentences for “honor killings”. Previously, the penalty (Article 409 of the Penal Code) was extremely lenient, providing that a man who kills his wife or female relative for adultery receive no more than a three-year prison sentence.

In yet another important step forward by the KRG and a sign of its resolve in addressing violence against women and girls, it established the GDTVAV within the Ministry of Interior (MOI) in 2007. GDTVAV has offices in the provinces of Erbil, Sulaimaniyah and Dohuk, which have three primary tasks:

- Collection of data and statistics on violence against women cases;
- Following up on cases of violence against women that enter the legal process;
- Raising awareness of violence against women within the community.

The GDTVAV also conducts outreach and operates hotlines for women to report abuse. While the GDTVAV statistics are somewhat incomplete and the process of collecting and reporting cases of violence against females must be strengthened, GDTVAV makes an important contribution to raising awareness, bringing the issue into the public realm, and supporting efforts to address it. According to UNAMI and the GDTVAV, the number of women who reported abuse increased from the last half of 2009 to the first half of 2010 rising from 1,486 to 2,040. This is likely due in part to concerted efforts by the KRG and Kurdish and International NGOs over the past decade to publicly address the problem, as well as the creation of GDTVAV.

Likewise, in June 2011, the Kurdistan parliament passed a domestic violence law (No 8 in 2011) which among other things:

- Defines violence against women;

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<sup>7</sup> “2010 Report on Human Rights in Iraq” UNAMI Human Rights Office, January 2011

<sup>8</sup> “2010 Report on Human Rights in Iraq” UNAMI Human Rights Office, January 2011

- Articulates types of violence;
- Outlaws female genital mutilation;
- Outlines procedures for reporting cases of violence against women and girls and for maintaining confidentiality;
- Directs the creation of a special domestic violence court to hear such cases.

The law is comprised of seven articles addressing prevention, protection and prosecution of domestic violence and represents an important step forward for the Kurdistan parliament, law enforcement, and victims of violence.

Despite this progress, several laws violating widely accepted international standards and treaties remain in place including the controversial “rape law,” whereby a rapist can avoid punishment if he offers to marry his victim. And while the domestic violence law has been signed, it is not yet fully implemented. In an interview with the IRC in December 2011, one Kurdish Judicial Council (KJC) judge said “According to the new domestic violence law there will be a special domestic violence court to address these cases, but the court is still not established, so until it is, there is only one judge in Erbil who will see domestic violence cases.” Likewise, despite the reversal of reduced sentences for perpetrators of honor-based killings for example, men continue to receive light sentences or in some cases avoid prosecution altogether. Indeed, according to Heartland Alliance, female victims continue to be assessed, even post-mortem, to determine their actions and whether such violence was legitimate, if not understandable.

*“The Judicial Investigator is supposed to conduct the investigation and write the investigative report. But when a woman arrives at the police station the police interview her and write the investigative report, which is then sent to the judicial investigator who signs it. Police don’t ask the right questions and don’t necessarily understand the law. They don’t write adequate reports because of biases or cultural influences. This then affects the decision of the judge. Lawyers should be present during the first investigation too. Even though it is in Iraqi law that all persons have the right to legal representation -- it is not happening.”* Kurdish NGO Representative

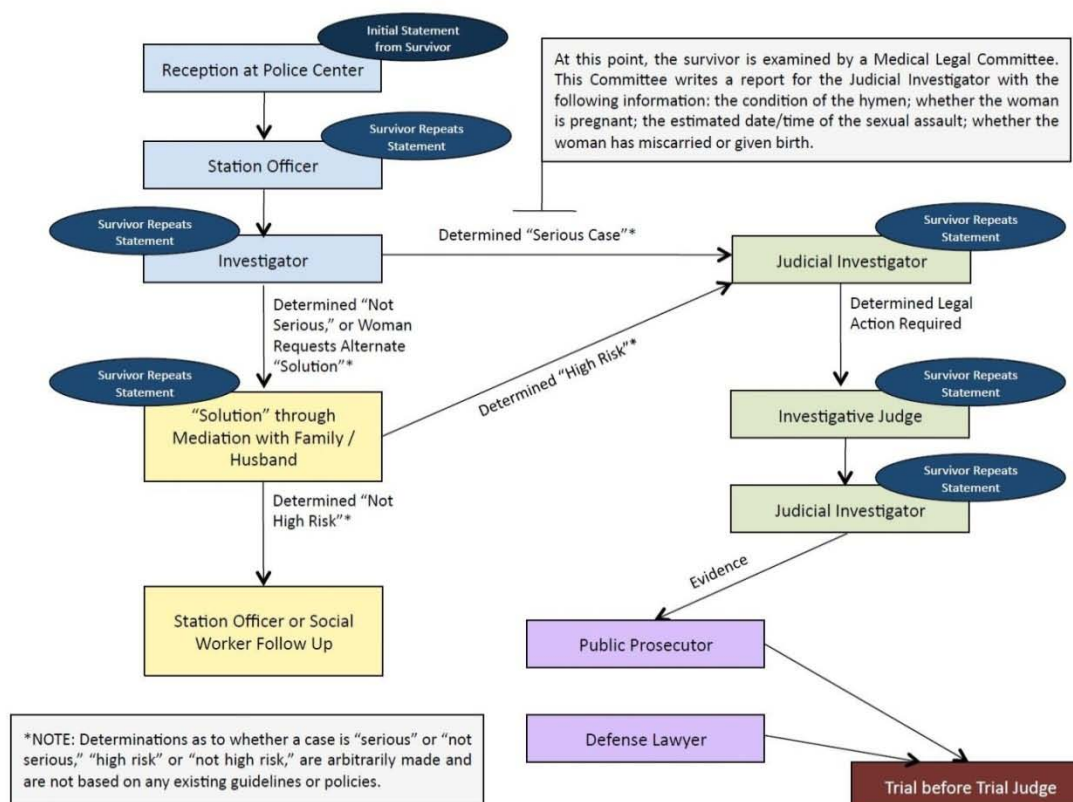
Like Iraqi Procedural Law enshrining the right to legal representation for the accused and investigations of crimes by judicial investigators, the domestic violence law represents yet another case whereby laws protecting women exist but are not fully implemented. And while there are laws in place to protect females from violence, there are few, if any, accountability mechanisms to ensure that law enforcement implements the law to the benefit of women.

For example, no official code of conduct or operational procedure exists for warning and disciplining police. Likewise there is no official policy regarding the breakdown of duties between the GDTVAV officials and police officers. GDTVAV officers have not been allocated adequate monitoring powers over the police stations, and although many GDTVAV officers

have ranks above police at station-level, there is no official policy allowing them to monitor and supervise police investigating cases of violence against women. While the police are often the first responders in cases of violence against women and girls, their role in investigations, crime scenes, and interviewing suspects remains unclear. This has obvious negative implications for survivors, who must navigate a complex law enforcement system that relies entirely on the decisions of individual officers, who may not be aware of Iraqi laws protecting women or who may interpret them incorrectly.

The judicial investigator in Kurdistan assumes many of the functions that police in other nations perform. The role of the judicial investigator within the criminal justice structure is to investigate, swear oaths, and decide on forms of legal action that may be taken, and to advise the investigating judge. But judicial investigators fall under the auspices of the KJC, whereas police fall under the MOI. There is not yet an official agreement between the two bodies on the exact nature and scope of the relationship between the police and the judicial investigators. Much has been left to practice and custom and thus application differs from region to region, resulting in inconsistency. As a result, a woman who enters the system through the police station may have to relive her traumatic experience several times during many interviews with different law enforcement officials (see chart below). Should she be referred to a shelter or psychological support services, she will be required to repeatedly tell her story.

### Sample Case of Woman Reporting Violence in Kurdistan



### Getting organized: the women’s protection and empowerment program of the IRC leads a gender task force on legal issues

It is in this context that the IRC Iraq Women’s Protection and Empowerment (WPE) program began implementing the GTF-Le. The IRC’s experience in complex contexts around the world has demonstrated the importance of a consolidated approach to addressing violence against women and girls. Coordinated efforts facilitate the identification of gaps in service delivery, strengthening of information collection and analysis, and development of strategic advocacy to effect policy or legal reform. In addition, collective advocacy provides added protection when addressing sensitive social issues like violence against women and women’s human rights.

In order to advocate effectively, the IRC invited representatives from seven local and international NGOs, the Kurdistan Bar Association, judges, government prosecutors and judicial investigators, the US government’s RRT, and UNAMI, to take part in the GTF-Le (see Annex I for a complete list of GTF-Le participants).

The use of hypothetical case studies and interactive activities allowed the GTF-Le participants to better understand what the legal process looks like for female survivors of violence, learn about the expertise, responsibilities, and practices of key stakeholders, and highlight a number of

obstacles for women and girls seeking protection and/or justice under KRG law. Equally important, the discussions allowed participants to better understand how a flawed response is so damaging, because it inflicts further trauma on the survivor and undermines the rule of law.

Specifically, the process revealed that the two critical components of Iraqi Procedural Law previously mentioned were not being followed by most law enforcement officials, resulting in a scenario whereby neither women or girls were protected, nor was the accused perpetrator of the crime. Below is a synopsis of the three-stage process undertaken by the GTF-Le to get organized.

**Step one:**

First, the IRC used the following case study to identify a number of obstacles for women and girls seeking protection under the law:

***Put yourself in this situation: a 15 year-old girl has been raped by a 30 year-old man and is now pregnant. Because she fears being killed by her family, she goes to the police station to file a complaint. Based on your experience, please explain what happens, in practice, at a police station when police respond to the survivor's situation.***

The meeting participants identified multiple responses to the scenario that occur in practice, none of which reflected the correct procedure dictated by law. Some outcomes were that:

- 1) Police would interview the survivor, take her statement, and write the formal investigative report to be signed by the Judicial Investigator and presented to the judge.
- 2) Police would suggest that the problem be solved in the police station through mediation to “keep it private” and would then send the survivor home.
- 3) If the legal case moved forward, the judge would typically make the decision to send the victim home anyway, or in the case of the city of Erbil when dealing with serious cases, possibly send her to jail for her protection.

Judges often see prisons as a safer alternative to sending a woman home, but as a result, women and girl victims of violence are incarcerated with criminals, creating further trauma and safety issues. And what shelters exist in Kurdistan are not yet fully adequate in terms of space and staff and are often no better than detention centers. They do not have the resources to provide effective counseling, education, or training to survivors, which would support survivors once they leave.

Other procedural flaws and obstacles were also identified, including:

- 4) Police officers often discourage a survivor from filing a complaint by warning them that the process will be lengthy, that publicity will result, by questioning why a woman would want to file a complaint against her husband, or by requiring a survivor to provide witnesses to support her claim; something she can rarely do.
- 5) Police persuade survivors to opt for mediation to solve the problem before they make a formal complaint. Yet it is the police who typically conduct mediation, despite rarely

having appropriate training. While mediation may be effective when done during legal proceedings, survivors may face further violence upon returning home after informal or ill-prepared mediation.

- 6) Charges may be brought against the victim - such as accusations of adultery or prostitution-when in fact, she was raped.
- 7) Victims are rarely informed of their right to legal representation or the availability of free lawyers through the NGO network, and rarely is a lawyer present during either the initial interview or the legal process.

### **Step two:**

It became clear through the GTF-Le meeting discussions that of the many obstacles facing female violence victims when seeking protection, there were two particularly important steps in the legal process that, if missed, would impede legal proceedings and prevent the survivor from following through with her complaint. The *first* is having the correct law enforcement official conduct the investigative interview, i.e.; the judicial investigator, a representative of the court employed by the government. And the *second* is providing a lawyer to guide the survivor through the legal process, inform her of her rights, and protect her from an unfriendly legal system. This is especially critical should her complaint become an investigation of her behavior, making her the accused rather than the victim.

As noted previously, Iraqi procedural law (No. 123 of 1971) stipulates that while police may be the first responders in cases of violence against women and girls, judicial investigators must be responsible for the initial investigation and documentation of the case. Only in extreme circumstances may police conduct the investigation and write the investigative report if a judicial investigator is not available. Iraqi procedural law stipulates such, because judicial investigators are jurists that are trained in the law, hold law degrees, are able to take sworn statements and represent the court. As a neutral party they can determine what laws were broken and what punishments correspond.

Iraqi Procedural Law and the Iraqi Constitution (Article 19), enshrine the right to defense for the accused at all stages of investigation and trial. Article 8(1) of the Coalition Provisional Authority Memorandum Number 3 (2003) provides any person accused of a felony access to a lawyer while in detention.<sup>9</sup> The GTF-Le found that whether or not a woman was accused of bringing violence upon herself that it was critical for her to have a lawyer from the initial stages of an investigation. This would greatly diminish the chances of women or girl victims of violence from being accused of having committed a crime.

### **Step three:**

With the focus of the GTF-Le established, subsequent taskforce meetings focused on how to bring the two issues to the attention of the KRG. Representatives agreed to write a memorandum to key policymakers including the Presidency of General Prosecutors, Kurdistan Judicial Council, General Directorate of Police, Kurdistan Bar Association (KBA), General of

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<sup>9</sup> “2010 Report on Human Rights in Iraq” UNAMI Human Rights Office, January 2011

GDTVAV, and the Minister of Justice (MoJ), highlighting the two areas of concern. The memorandum highlighted the two major issues and recommended that as per Iraqi law, judicial investigators under the supervision of the investigative judge should conduct investigations. It also highlighted that legal representation for the accused at every stage of an investigation is a constitutional and legal right and must be implemented. While the GTF-Le recognized that a female victim of violence would benefit greatly from legal representation, it decided that the most important first step was for all accused persons, men or women, to be provided with legal representation per the law. Separately however, many GTF-Le members have advocated for law enforcement officials to suggest to women victims of violence that they obtain legal council immediately after reporting violence so as to ensure an awareness of their rights and that they are not falsely charged with a crime.

#### **A Presidential Decree: Meeting with KRG officials and the impact of the memorandum**

*"[The Gender Task Force-Legal] has raised awareness around the human experience of women and girl victims of violence and we now understand better how to treat those victims."* Kurdish Judge Representing the Kurdish Judicial Council

In February 2011, the GTF-Le presented the Memorandum to all target officials in separate meetings. Feedback from government officials to the GTF-Le was positive and included several recommendations. The KBA expressed readiness to work in collaboration with the GTF-Le to address the two issues and offered to supply police stations with a list of lawyers available to provide pro bono legal representation to survivors. The KBA also suggested setting up a meeting between itself, the GTF-Le and the MOI. The IRC quickly followed up on the recommendation by holding the meeting.

It was noted in several meetings that NGO collaboration with the MOI needed to be strengthened to ensure that police are aware that judicial investigators, present in all police stations, will conduct investigations. The MOJ also expressed the desire to work more closely with the MOI to address the challenges facing female victims of violence in Kurdistan.

The GTF-Le memorandum and the meetings with government officials had an extremely positive domino effect. In February 2011, just three days after the GTF-Le met with him, the President of the KJC sent a letter to the heads of the appeals courts of each province. In it, he urged them to focus more attention on violence against women cases, to ensure that Iraqi law is being implemented and that lawyers are present during all violence against females investigations. To make this happen, he required all heads of appeals courts to coordinate with the KBA.

The head of appeals courts for Erbil then sent the letter to the First Investigative Judge of Erbil, who then circulated it to all police stations in Erbil with a mandate that effective immediately, lawyers must be present during all investigative interviews for violence against women and girls cases. Meanwhile, in Sulaimaniyah, there was similar progress. There, in May 2011 the highest judge of the appeals court circulated the letter to all investigative courts in Sulaimaniyah,

alerting them to the mandate that every accused must have a lawyer representing him/her in accordance with Iraqi law.

And more progress followed, In August 2011 the President of Kurdistan, Masoud Barzani, issued a decree highlighting the Iraqi constitutional right to have lawyers present during questioning. It was another important step forward, this one by the highest government official in the KRG. The decree states that no person will be arrested unless Iraqi procedural law is followed, and that during the investigation the accused must have a lawyer present and that his/her family must be notified. President Barzani also said that within 24 hours, the suspect must be questioned by a judicial investigator. He also noted that the Government, in general, and the KJC, specifically, should have procedures in place to provide lawyers to the accused and ensure their access to appropriate judicial authorities. The Presidential Decree was a direct result of the GTF-Le. It was also a sign of the commitment of the President to address violence against women and girls.

### **More action is urgently required**

The letter from the President of the KJC, the Presidential Decree, and the involvement of key government stakeholders in the GTF-Le, demonstrate the KRG commitment to reducing violence against women in Iraq Kurdistan in partnership with civil society. It is a strong testament to the importance of coordination between government and civil society. The Decree, in fact, acknowledges that the crisis of violence against women and girls in Iraqi Kurdistan is as much about laws as it is about putting mechanisms in place to ensure those laws are implemented. Now, more must be done at the highest levels of the KRG and with the support of the international community to institutionalize a zero tolerance approach to violence against women and girls. One of the more urgent areas of development is to create accountability and oversight mechanisms of police.

When the IRC interviewed government officials in December 2011 about progress made in addressing violence against women and what more needs to be done, they typically agreed that implementation remains an issue. According to one of the highest-level police officials in the KRG, judicial investigators still fail to investigate most cases and “the Ministry of Interior and Kurdish Judicial Council need to agree on a way to ensure that it happens.” This would require written procedures and protocols for authorities responding to violence against women as well as concrete oversight mechanisms to ensure implementation of the law.

Another critical area is resourcing. According to one appeals court judge interviewed by the IRC in December 2011, “there are still not enough judicial investigators; only one per police station. And financially they are not supported, so they don’t have offices, supplies or vehicles to get to the crime scene or to visit witnesses to conduct investigative interviews. This is sometimes why police end up doing it.” And the fact that there is no judicial investigator in police stations for the night shift means that when a case of violence occurs overnight, the female victim will not receive the legal support required.



With regards to ensuring that lawyers are present during all stages of the investigation the judge noted that, “lawyers paid by the government to represent the accused get paid very little. Not enough lawyers will do this for the salary they get.” Lawyers provided by the government also have little or no transportation and supply budget, making it difficult for them to respond. These problems are even more troubling given that one GDTVAV official says that in about 70% of violence against women and girls cases that reach the GDTVAV, the survivor wants to go through the legal process in search of justice. It is essential that KRG officials at the highest level address the budget shortfalls that cripple the law enforcement process in Iraqi Kurdistan.

Simultaneously, the international community must also remain aware of the KRG’s political will to combat violence against women and girls and to do so by working with civil society. Donor governments must continue to support initiatives like the GTF-Le and encourage an expansion of such initiatives throughout Iraq. When asked about the role the international community might continue to play in addressing violence against females in Iraqi Kurdistan, one UN representative said that donor funding for international and local NGOs is critical. She noted that “international donors don’t invest in Kurdistan as much because they consider it to be relatively safe compared to the rest of Iraq. Many local NGOs working on violence against women have been abolished because they had no funding.” Other areas that would benefit greatly from international support are continued police and judicial training, investing in the building of shelters and other safe spaces for women and girls, and ensuring continued donor commitment to the KRG. One police chief suggested that more human rights training would be useful, and was interested in better understanding how police in foreign countries respond to violence against females.

### **Conclusion:**

Despite the challenges that remain, every KRG and NGO representative the IRC interviewed in December 2011 believed that the work of the GTF-Le was critically important and that there had been significant, if not historic, progress made to combat violence against women and girls in Kurdistan in recent years. Political will within the KRG exists, but there are still many obstacles facing women and girls, NGO representatives, and government officials working to address the problem. The IRC is certain that with ongoing coordinated work through the GTF-Le and other similar mechanisms, with action from government officials at the highest levels, and with international support, significant inroads can be made in addressing the human rights crisis of violence against women and girls in Iraqi Kurdistan. The IRC hopes that the GTF-Le can serve as a model for similar efforts throughout Iraq and the broader Middle East and North Africa region.

### **Recommendations by members of the Gender Task Force – Legal to various stakeholders:**

Recommendations to the KRG:

- 1) It is recommended that the office of the Presidency hold a roundtable discussion with the Ministry of Interior, Ministry of Justice, Ministry of Labor and Social Affairs, Kurdish Judicial Council, Kurdistan Bar Association, and the Gender Task Force Legal, to establish a Memorandum of Understanding around roles and responsibilities of judicial investigators, police and the GDTVAV;

- 2) The Interior Ministry should establish an oversight and accountability body to ensure that procedures and protocols outlined and agreed upon for responding to cases of violence against women and girls are followed by police and GDTVAV officials;
- 3) The Interior Ministry together with civil society should develop awareness raising campaigns for police around confidentiality and the proper and legal use of mediation;
- 4) A sufficient budget should be allocated to place at least three judicial investigators in each police station to ensure 24-hour coverage, and to provide sufficient resources (such as vehicles and other tools necessary) to conduct proper investigations;
- 5) Provide higher salaries to government appointed lawyers to attract quality lawyers;
- 6) Promote women to positions of leadership in the police, legal and judicial systems and especially as investigators so women can speak openly about their cases;
- 7) Put in place a multi-sector framework and long term strategic plan with relevant civil society organizations, religious leaders, tribal chiefs and community leaders to improve the status of women and girls and the overall conditions of Kurdish families.

Recommendations to Donor governments:

- 8) Continue to fund police and judicial staff training related to violence against females;
- 9) Coordinate initiatives with each other and the KRG to combat violence against women and girls and reduce overlaps or gaps in services;
- 10) Ensure that programs are fully responsible to the women and girls they are intended to serve by supporting further investigation and research into women's and girls' access to justice via Kurdish universities and civil society;
- 11) Advocate with the KRG to implement the above recommendations.

Recommendations to Non Governmental Organizations:

- 12) The Kurdistan Bar Association should develop and maintain a list of lawyers to represent women and girl victims of violence and should share it with police and judicial investigators in all police stations;
- 13) Conduct awareness-raising campaigns for communities on the right to legal representation and encourage women to ask for lawyers before speaking to police about violence.

Annex I:

**Gender Task Force Group names:**

<b>No</b>	<b>Organization</b>	<b>Names</b>
1	IRC – WHP legal Expert	Wahbya Zrar Asaad
2	IRC – WHP program officer	Munir Hassan
3	Regional Reconstruction Team – RRT	Michael Mahoney
4	Regional Reconstruction Team – RRT	Diane Crow
5	Regional Reconstruction Team – RRT	Karim S.Salih
6	UNAMI	Shno Faraj
7	Heartland Alliance	Rezan Dler Mustafa
8	Relief International	Sarab Dlawar Ziyad
9	Relief International	Nask Omer
10	Al-Mesalla Centre	Rozh Sherzad Adbulkarim
11	Al-Mesalla Centre	Shaima Hasan Ahmed
12	ASUDA Organization	Sazan Ismael Fatah
13	Popular Aid Organization	Dashti Ibrahim
14	Gender Equality Organization	Lajan Sabir
15	Democracy and Human Rights Developing Centre	Paree Ahmad Salih
16	Kurdistan Bar Association	Karwan Najib Mohammad
17	Two Investigative Judges from Erbil Investigation Court	
18	Two General Prosecutors from Erbil and Sulimanya	
19	Three Judicial Investigators from Erbil	