

PROTECTION OF RIGHTS OF OLDER PERSONS IN IRAQ: TOWARDS ENACTMENT OF LEGISLATIVE FRAMEWORK

Esraa Mahmood Badr Alsamee, University of Kufa

ABSTRACT

Owing to the piecemeal decrease in death rates and growth in life expectancy, the proportion of older individuals in the overall population worldwide is rising, catching many governments completely unprepared. In Iraq, the old persons are mostly outside the social and legal security sphere, leaving them at risk of abuse and neglect. While their rights are recognized by the Constitution, to protect these rights and to ensure that their needs and concerns are met, effective laws and regulations are not in effect. This paper acknowledges the insecurity of older people, highlights the human rights of older people, and calls for special care and the complete realization of their rights. The paper also seeks to analyze the steps taken by other nations, such as Egypt, Qatar and India, to secure the rights of the elderly and proposes to Iraq some of these initiatives. Therefore, this paper supports the timely development of policies and laws for the protection of older people.

Keywords: Human Rights, Old Persons, Iraq Constitution 2005, Neglect, The Protection of Older People.

INTRODUCTION

At a time when the population aging phenomenon is rising to become an unparalleled global phenomenon in the history of our human civilization, where the pronounced decrease in the rate of mortality and the relative decrease in the rate of natural increase in population growth would inevitably impact all classes of society and the different areas of economic and social life (Mandal, 2011; Love & Lynch, 2018).

In view of these demographic changes, it is important to take increasing steps to ensure the inclusion of older people into society, to reduce their marginalization, to take advantage of their energies and experiences, not to waste them and to make them an additional burden on society, as well as to improve their circumstances and to treat them with the utmost respect. In Iraq, the majority of the elderly live in poverty, with insufficient family care and inaccessibility to the health services that concern them (Clark, 1972).

In Iraq, however, the elderly fall beyond the reach of social and legal security notwithstanding their irrefutable dedication, the Iraqi Constitution acknowledges their rights; it does not provide adequate protection, leaving them in great danger of violence and negligence. The elderly suffered serious violations of their human rights, particularly after the collapse of the political system in 2003, and no attempts were made to book the perpetrators.

On the basis of the need to provide a legal and social system that protects the rights of the elderly and to build a national and international climate that guarantees a community of all ages,

and to ensure that this category receives the required attention. In particular, considering the international development of the rights of the elderly according to the rules laid down in international treaties, it was appropriate to highlight the legal reality of the elderly in Iraq. It is against this backdrop that this paper underpins the imperative need for appropriate legislative legislation to protect the rights and dignity of the elderly more effectively. These countries Egypt, Qatar, and India have been chosen because they have been able to reinforce their legal framework in order to safeguard the rights of the elderly and to preserve their dignity and improve their quality of life, and it is possible to take lessons and take advantage of applications from these countries to secure the rights of the elderly in Iraq.

This study employed the doctrinal approach because this analysis is legal in nature. A doctrinal approach may be characterized as theoretical research that relates to the study, analysis of legal texts, principles or doctrines (**Huchinson & Duncan, 2012**). This approach was chosen because study, review, critique, the application of legal texts was included in legal research (Alsamee, 2021). It relied primarily on legal materials and resources obtained from the library and reviewing the texts of the international conventions organizing human rights and the position of the Iraqi constitution and the legislative protection of the rights of older people in some of the countries being studied.

It is hoped that this study will provide a framework for, and a fuller understanding of, research into this issue and that, most significantly, it will provide valuable guidance to the governments to protect the rights of older persons. Another hope is that it will serve as a valuable guide for organizations of civil society dealing with this issue.

The Demographic Pattern of Old Persons in Iraq

The global phenomenon is an ageing population or a rapid rise in the number of elderly. As a result of decreased fertility and increased life expectancy, nations are graying as the elderly population increases much faster than the overall population (**Crimmins, 2004**). In developing countries, over a century, the process is compressed into two or three decades. There will be 2 billion people over the age of 60 in 2050, 80 percent of which will be living in developing countries.

There has been a rise in the number and percentage of people aged 60 years and over in the world, the number of people aged 60 and over in 2000 was about 26.8 million (5.8 percent of the total population). The elderly are predicted to make up about 8.7 percent in 2025, which to make up about 15 percent of the population by 2050.

Then, according to the Iraqi Ministry of planning estimates for 2018, the Ministry reported that the percentage of the elderly population in Iraq reached 3 percent, indicating that Iraqi society is one of the young societies. In the same vein, spokesman for the ministry, Abdul Zahra Al-Hindawi an interview conducted by the Euphrates News Agency on 8 October 2018, that *"the number of elderly people in 2018 reached one million and 200 thousand people, representing 3 percent of the population, and it will continue to rise to reach 4.4 percent in 2030"*.

The proportions of the old persons differ by gender in the governorates of Iraq for the year 2017, where it is noted that the three highest proportions of the elderly in the male population were 24.1, 8.4, 8.1 percent respectively, achieved in each of the governorates

Baghdad, Erbil, Nineveh, and the lowest three percentages were reflected in each of the governorates Muthanna, Maysan & Karbala. In 2017, the total dependence ratio in Iraq reached 77.1 percent, and the ratio decreased between 1997 and 2017, where it was 93.4 percent in 1997, and the cause is due to the decline in the percentage of young and old persons and the high percentage of youth between 15-64 years (Al-Khaleefah, 2020).

He also explained that the development plans established by the Ministry seek to find appropriate means to help these residents and enable them to live in safety and dignity, noting that the percentage of the elderly female population reached 3.3 percent, while the percentage of elderly males reached 2.9 percent and the percentage of the elderly population in urban areas is reached 3.3 percent compared to 2.5 percent in the countryside, and the population figures indicate that 73 percent of elderly people are married and 23.5 percent are separated. Al-Hindawi pointed out that the total number of people with disabilities in Iraq, 6.6 percent of older people aged 65 and over are people with disabilities, 16.4 percent of them are unable to fully perform their job and 26 percent face considerable difficulty in doing their job, and there are 27 percent who suffer some difficulty in doing their job (Almaalomah News Agency, 2020).

International Position to Protection of Old Persons Rights

Human rights are the rights to which all persons are entitled by way of being human, as the mere life of human beings possesses these privileges, they become operational from birth (Douzinas, 2002; Meyers, 2016). Human rights are therefore inherent in all people, regardless of age, faith, gender, religion, and nationality. For individuals, these rights are important because they are compatible with their equality and dignity and are conducive to physical, legal, social and spiritual well-being (Sciubba, 2014; Vatter & De Leeuw, 2019).

Therefore, older men and women have the same rights as anyone else. Thus, the strengthening of one right will lead to the advancement of others, and the breach of one right will have a detrimental effect on others as well (Clark, 1972). The United Nations Charter (UN) of 1945 is considered the starting point for international human rights regulation which states in the Preamble that *"to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small,"*

Also, Article 55/Chapter IX: International Economic and Social Co-Operation states that *"With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, the United Nations shall promote"*:

- 1- Higher standards of living, full employment, and conditions of economic and social progress and development;
- 2- Solutions of international economic, social, health, and related problems; and international cultural and educational cooperation; and
- 3- Universal respect for and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.

The Universal Declaration of Human Rights (UDHR) of 1948 includes these rights and covers cultural, economic, social and political rights. Article 1 of the UDHR states that *"All human beings are born free and equal in dignity and rights. They are endowed with reason and*

conscience and should act towards one another in a spirit of brotherhood". Consequently, the right to liberty, equality and dignity is not affected or altered because of old age.

In addition, the International Covenant on Economic, Social and Cultural Rights (ICESCR) of 1966 and the International Covenant on Civil and Political Rights (ICCPR) of 1966 which offer generic protection of cultural, economic, social, civil and political rights, in article 6 of the ICESCR states that: The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right. The steps to be taken by a State Party to the present Covenant to achieve the full realization of this right shall include technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual. Also, article 7 states *"The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favorable conditions of work which ensure, in particular"*:

Remuneration which provides all workers, as a minimum, with: Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work; A decent living for themselves and their families in accordance with the provisions of the present Covenant; Safe and healthy working conditions; Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence; Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays, and the article 9 pointed out the rights to social security.

The States Parties to the present Covenant recognize the right of everyone to social security, including social insurance, and an adequate standard of living in article 11 states that

1. The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.
2. The States Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international co-operation, the measures, including specific programmes, which are needed:
 1. To improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources;
 2. Taking into account the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to need.

Then article 12 states

1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.
2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:

- 1.The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child;
- 2.The improvement of all aspects of environmental and industrial hygiene;
- 3.The prevention, treatment and control of epidemic, endemic, occupational and other diseases;
- 4.The creation of conditions which would assure to all medical service and medical attention in the event of sickness.

Also, the ICESCR mention to education in article 13 states

1. The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.
2. The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right:
 - 1.Primary education shall be compulsory and available free to all;
 - 2.Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education;
 - 3.Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education;
 - 4.Fundamental education shall be encouraged or intensified as far as possible for those persons who have not received or completed the whole period of their primary education;
 - 5.The development of a system of schools at all levels shall be actively pursued, an adequate fellowship system shall be established, and the material conditions of teaching staff shall be continuously improved.
3. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to choose for their children schools, other than those established by the public authorities, which conform to such minimum educational standards as may be laid down or approved by the State and to ensure the religious and moral education of their children in conformity with their own convictions.
4. No part of this article shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principles set forth in paragraph I of this article and to the requirement that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

In the ICCPR, article 18 states that

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.
2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.
3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.
4. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

Also, article 19 included that

1. Everyone shall have the right to hold opinions without interference.
2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.
3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
 1. For respect of the rights or reputations of others;
 2. For the protection of national security or of public order (order public), or of public health or morals.

Article 26 also states *"All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status"*. It is noted that there are no clear references to the elderly in the ICESCR and the ICCPR.

In 1995, General Statement No. 6 on 'Political, Social and Cultural Rights of Older People' was issued by the Committee on Economic, Social and Cultural Rights (CESCR). The statement offers a legal explanation of how older people should be protected by the ICESCR. It explains that the absence of age explicitly as an unconstitutional ground of discrimination was not deliberate, but happened because the question of population aging was not as apparent or as urgent as it is now when the ICESCR and ICCPR were adopted (Fredvang & Biggs, 2012; Young, 1999).

As regards the Arab Charter for Human Rights of 2004, the wording was close to the Universal Declaration and the International Covenants for Human Rights, that it did not grant the elderly a strong and explicit interest. Clearly, the Charter of Fundamental Rights of the European Union of 2000, acknowledges and respects the rights of older persons to live a life of dignity and freedom, to engage in social and cultural life, to have the right to social security in addition to social services, and to have access to adequate housing for people who lack money (Article 25).

Whereas the Vienna International Action Plan on Aging was introduced by the World Assembly on Aging in 1982, it was subsequently adopted by the General Assembly in resolution 51/37 of 1982 and became the international reference instrument for all plans, policies and programs for two decades in everything relevant to elderly issues in various nations of the world. The plan has a clear human rights focus on the complete realization of the human rights and freedoms of the elderly, the full enjoyment of the economic, social and cultural rights and civil and political rights of the elderly, and the abolition of all forms of abuse and discrimination against the elderly. It also established three policy directions to drive policy formulation and implementation: advancing health and well-being into old age, ensuring enabling and supportive environments for older persons. In addition, the Political Declaration reaffirms its commitment to the abolition of age discrimination, to the promotion of the recognition of the dignity of the elderly, to their integration in society, and to the promotion of their human rights in general (Elias, 2012).

In 1990, 1st. October was recognized by the General Assembly as the International Day for the Elderly, later rechristened the International Day for the Older Persons. The resolution 46/91, the United Nations Standards for older persons, was adopted by the United Nations General Assembly in 1991. Although this is also not legally binding as a resolution of the Assembly, it lists principles that governments are required to include in national policies in five areas: freedom, engagement, care, self-fulfillment and dignity. In 1992, a decade after the first World Assembly on Ageing, the Proclamation on Ageing was ratified (Overbury, 2005).

On 15 and 16 October 1992, on the occasion of the tenth anniversary of the adoption of the International Plan of Action on Aging (the Vienna Plan), the United Nations General Assembly held an International Conference on Aging, adopted which clarified the problems facing the countries of the world, in particular developing countries as a result of the rapid aging of the population, and highlighted some signs of hope in economic, social and cultural growth and stressed the right of the elderly to aspire to the highest possible standard of health care, as well as their need for comprehensive community and family care (Elias, 2012).

In addition, 20 years after the first World Assembly on Aging was held in Vienna in 1982, the Second World Assembly on Aging convened in Madrid on 8-12 April 2002. At its tenth meeting on 4 December 2002, this Assembly adopted two very important documents; the Political Declaration and the Madrid International Action Plan on Aging 2002.

Also, age-specific instruments, there are different instruments which enshrines the rights of older persons such as the African Charter of Human and People's Rights 1981, UN Declaration on the Right to Development 1986; Convention on the Elimination of Racial Discrimination 1965; Convention on the Elimination of all forms of Discrimination against Women 1979; Convention against Torture and Cruel, Inhuman or Degrading Treatment or Punishment 1984, Convention on the Rights of the Child 1989; UN Standard Rules on Equalization of Opportunities for Persons with Disabilities 1996.

There is, however, no international convention dealing with the rights of the old persons in an extended manner that enhances the defense of the rights of old persons (Mégret, 2011; Poffé, 2015) and leads to the recognition of international human rights standards for this category, such as the Convention on the Rights of the Child of 1989 and the Convention on the Rights of Persons with Disabilities of 2006.

In brief, the protection of the human rights of older persons under international law is wide-ranging and involves a collection of rules, declarations, and principles relating to the application to older persons of international and regional conventions, these documents are useful guidelines for state action in setting standards and influencing domestic policies, but there are no legally binding obligations in any of the documents. As a result, enforcement can be weak and states often do not incorporate these international standards into their domestic policies.

The Protection of Rights of Older Persons in Select Countries

The Egypt Constitution (Constitute, 2014) expressly provides for the rights, entitlements and privileges of older persons with specific obligations on state and the family. Article 83 states that *"The state shall guarantee the health, economic, social, and cultural and entertainment rights of the elderly provide them with appropriate pensions to ensure them a decent standard of living, and empower them to participate in public life. The state shall take into account the needs*

of the elderly while planning public utilities. It also encourages civil society organizations to participate in caring for the elderly. All the foregoing takes place as organized by law". Article 78 stress the state guarantees citizens the right to decent, safe and healthy housing, in a way that preserves human dignity and achieves social justice. While, article 17 obligate state to provide right to social security to ensure a decent life to the needy older persons. Also, article 46 mentions to the right to live in a healthy, sound and balanced environment, and the state is obligated to taking the necessary measures to preserve it, avoid harming it.

In Egypt, the old persons are receiving great attention from the government, in the form of government initiatives, such as the Elderly Companion Project and the Homeless Elderly Initiative of the Ministry of Social Solidarity; this concern has been transformed into fact. Then, representative Maysa Atwa, Undersecretary of the Manpower Committee of the Concile of Representatives, submitted a proposal the 'Time Bank' to the Prime Minister and the Ministers of Solidarity and Communications, to increase interest in the old persons and improve community relations, the time bank proposal can included large number of elderly people, including those who do not find anyone to take care of, and instead of sending them to care homes, and this proposal offers an incentive for retirees who are in good health who want give part of their time to take care those who have advanced in age.

The "*Elderly Companion*" project was launched by the Ministry of Social Solidarity to take care of the old persons, in 2019, there are 150 young men and women between the ages of 18 and 45 who had a high school diploma or equivalent and who were free from physical and psychological diseases were trained to serve the elderly in homes, and the Elderly Companion project is an idea adopted by the Ministry of Social Solidarity.

As for the Egyptian Elderly Rights Care Legislation, the law consists of 24 articles that include elderly-related articles that require treatment whenever necessary at the expense of the state. A destitute elderly person who does not live in a public care home is entitled to a pension for himself or for whom he is entrusted with care, and certain benefits, including exemptions from government payments in return for public services, health insurance fees, are also available to the elderly under this law.

Under the Qatar Constitution, article 21 states that "*The family is the basis of the society. A Qatari family is founded on religion, ethics, and patriotism. The law shall regulate adequate means to protect the family, support its structure, strengthen its ties, and protect maternity, childhood, and old age*". Article 23 foster the preservation of the health of the elderly, and article 34 mentions to equality between the elderly and others in rights and public duties, and article 35 states that "*All persons are equal before the law and there shall be no discrimination whatsoever on grounds of sex, race, language, or religion*".

Existing legislation, policies and programmers that protect the rights of older persons in Qatar include;

1. Law No. 23 of 2007 in the field of social security.
2. Family Law No. 22 of 2006.
3. Housing Law No. 23 of 1972 which provide housing for the disabled and the elderly at the expense of the state, and Housing Law No. 2 of 2007 which provided housing rights for all Qataris, not only the elderly.

As a result, Qatar guarantees the protection the rights of old persons in the Constitution and national legislation supporting the right to legal protection, social security, accommodation, employment and health care.

In India, article 39/A of the Constitution of (Law, 1946) states "*that the citizens, men and women equally, have the right to an adequate means of livelihood*", article 41 states that "*The State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want*".

In addition, The Maintenance and Welfare of Parents and Senior Citizens Act, (Law, 2007) mentions that entitles any old persons, including parents, in the case of childless senior citizens to apply for maintenance against his children or relatives if he is unable to maintain himself from his own earnings or from the property that he owns. As for Section 5(1) states that an application for maintenance under section 4, may be made.

1. By a senior citizen or a parent, as the case may be; or
2. If he is incapable, by any other person or organisation authorised by him; or
3. The Tribunal may take cognizance suo motu.

Also, if children or relatives neglect or refuse the maintenance of old persons, the court may order such children or relatives to make a monthly allowance for the maintenance of senior citizens, the Act requires state government to ensure specific measures for the protection of senior citizens' life and property. Section 20 pointed out to medical support for senior citizens. The State Government shall ensure that:

1. The Government hospitals or hospitals funded fully or partially by the Government shall provide beds for all senior citizens as far as possible;
2. Separate queues be arranged for senior citizens;
3. Facility for treatment of chronic, terminal and degenerative diseases is expanded for senior citizens;
4. Research activities for chronic elderly diseases and ageing expanded;
5. There are earmarked facilities for geriatric patients in every district hospital dully headed by a medical officer with experience in geriatric care. Under Section 24 of the Act, the expose or abandonment of senior citizens is an offence.

Constitutional Protection of Old Persons Rights in Iraq

The constitutional stipulation of fundamental human rights is one of the important ways of protecting human rights, and acts to prevent or expose human rights to violence; all state institutions must uphold them and not breach their provisions (Al-Shammari, 2008).

The Iraqi Constitution mention in general to the rights and freedoms, in article 14 states that "Iraqis are equal before the law without discrimination based on gender, race, ethnicity, nationality, origin, color, religion, sect, belief or opinion, or economic or social status", and article 15 pointed out that "*Every individual has the right to enjoy life, security and liberty. Deprivation or restriction of these rights is prohibited except in accordance with the law and based on a decision issued by a competent judicial authority*", then, article 16 states that "*Equal opportunities shall be guaranteed to all Iraqis, and the state shall ensure that the necessary measures to achieve this are taken*".

However, article 29 refers to the rights of older persons clearly

First

1. The family is the foundation of society; the State shall preserve it and its religious, moral, and national values.
2. The State shall guarantee the protection of motherhood, childhood and old age, shall care for children and youth, and shall provide them with the appropriate conditions to develop their talents and abilities.

Second

Children have the right to upbringing, care and education from their parents. Parents have the right to respect and care from their children, especially in times of need, disability, and old age.

Third

Economic exploitation of children in all of its forms shall be prohibited, and the State shall take the necessary measures for their protection.

Fourth

All forms of violence and abuse in the family, school, and society shall be prohibited. *"Article 26/ Second included that " The State shall guarantee social and health security to Iraqis in cases of old age, sickness, employment disability, homelessness, orphan hood, or unemployment, shall work to protect them from ignorance, fear and poverty, and shall provide them housing and special programs of care and rehabilitation, and this shall be regulated by law."* The article above provides the basis for the enactment of the legislation, to help protect the integrity, health and maintenance of the elderly. So, to protect and advance these rights, legislative and other measures need to be formulated which shall impose duty on the family and government to cater for the needs and concerns of the older persons.

Also, there is existing legislation, policies and programs that protect older people's interests in Iraq indirect way include;

1. Workers' Retirement and Social Security Law No. 39 of 1971.
2. Unified Pension Law No. (9) Of 2014.
3. Personal Status Law No. 188 of 1995, as article 61 states that the obligation of the affluent child to maintain his or her parent.
4. Penal Code No. 111 of 1969, in article 383 mentions that to punish anyone who exposes himself or others to risk, with imprisonment or a fine; a person who is unable to protect himself because of his health, mental or psychological condition.

Legislative and other initiatives that place an obligation on the family and government to address the needs and interests of older people must also be established to secure and support these rights. Whereas, there is no specific legislation relating to the protection of the rights of older people in the Iraqi national legislative system. Therefore, the Iraqi government must enact and enforce a law that specifically and expressly respects the rights of elderly people and

protects their dignity and well-being. The role of government is very important for providing preventive health care and a lifetime of well-being for old people. Creation of a health care continuum to fulfill the requirements of older people.

Also at least one hospital must have geriatric facilities in each governorate. The most fundamental action to give them self-confidence and raise their morale should be the provision of mobile Medicare units to provide healthcare to elderly people in rural and remote areas, and to secure their rights by different laws. The state should increase the number of nursing homes so that in each governorate there is one home for the elderly, and punish with the most extreme penalties all those who misuse the elderly for begging and enslavement for personal and social interests.

CONCLUSION

The proportion of older persons in the total population worldwide is increasing due to the gradual decline in death rates and rise in life expectancy. While constitutions recognize the rights of the old persons, whether directly or indirectly, and there are no effective laws and policies in place to safeguard these rights and to ensure that their needs and concerns are addressed, by protecting their rights and supplying them with living comfort as the international conventions have concentrated on rights. However, there is no international convention dealing with the rights of the old persons that strengthen the protection of their rights.

In their constitutions, several countries have organized the rights of the elderly, with the involvement of indirect internal legislation working to respect the rights of the elderly and to encourage their well-being in society, providing them with health care and social services.

Also, this paper has shown that there is a lack of adequate legislations and policies for the protection of older persons. The existing legislations do not sufficiently protect older people's rights and needs. In addition, the Iraqi Constitution refers to rights and freedoms in general, without directly referring to the old persons and taking their rights, so, it is better for the Iraqi legislator to pay more, constitutionally and legally, attention to this category. There is therefore an immediate need to pass a law to preserve the interests of old persons.

REFERENCES

- Al-Shammari, A.S. (2008). Guarantees of human rights and fundamental freedoms in domestic legal systems. *Al Furat Center for Development and Strategic Studies*.
- Al-khaleefah, L.A.M. (2020). *The demographic and social reality of the elderly in Iraq*.
- Alsamee, E.M. (2021). The phenomenon of members parliament absence in Iraq. *Statute Law Review*, 42(2), 183-197.
- Clark, R.S. (1972). *A United Nations high commissioner for human rights*. Brill Archive.
- Douzinis, C. (2002). Identity, recognition, rights or what can Hegel teach us about human rights? *Journal of Law and Society*, 29(3), 379-405.
- Elias, Y. (2012). *Legal protection for the elderly in the gcc countries, a comparative analytical legal study*.
- Fredvang, M., & Biggs, S. (2012). *The rights of older persons: Protection and gaps under human rights law*. Social policy.
- Hutchinson, T., & Duncan, N. (2012). Defining and describing what we do: Doctrinal legal research. *Deakin Law Review*, 17, 83-94.
- Love, J.G., & Lynch, R. (2018). Enablement and positive ageing: A human rights-based approach to older people and changing demographics. *The International Journal of Human Rights*, 22(1), 90-107.

- Mandal, S.N. (2011). *Protection of rights of oldage person in India: A challenging facet of human rights*.
- Mégret, F. (2011). The human rights of older persons: A growing challenge. *Human Rights Law Review*, 11(1), 37-66.
- Meyers, D.T. (2016). Recovering the human in human rights. *Law, Culture and the Humanities*, 12(3), 474-484.
- Overbury, O., Wittich, W., & Spadafora, P. (2005). United Nations' Principles for older persons viewed through the eyes of visually impaired seniors. *International Congress Series*, 1282, 428-432.
- Almaalomah News Agency. (2020). Planning: *The Percentage of elderly people in Iraq Reached 3% of the Population*.
- Poffé, L. (2015). Towards a new United Nations Human rights convention for older persons? *Human Rights Law Review*, 15(3), 591-601.
- Sciubba, J.D. (2014). Explaining campaign timing and support for a UN convention on the rights of older people. *The International Journal of Human Rights*, 18(4-5), 462-478.
- Constitute. (2014). *The Egypt Constitution*.
- Law. (1946). *The India Constitution*.
- Law. (2007). *The maintenance and welfare of parents and senior citizens act*.
- Vatter, M., & De Leeuw, M. (2019). Human rights, legal personhood and the impersonality of embodied life. *Law, Culture and the Humanities*, 1(1), 1-21.
- Young, J. (1999). The politics of the human rights act. *Journal of Law and Society*, 26(1), 27-37.