

People's Development Association
Project to Combat Forced Marriage



Iraqi Kurdistan

forced marriage: life and a critical destiny

Forced Marriage Traditions, Lack of Public Awareness, and Authority Negligence



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Forced Marriage: Life and a Critical Destiny

Forced marriage: traditions, lack of public awareness, negligence of authorities

This project is conducted by People's Development Association



In partnership with Norwegian People's Aid



Directorate of Integration and Diversity



This report was prepared by:
Ashne Jabar: Project Field Officer
Reviewed by :
Karwan Mahdi: Project Field Director

It was produced under the supervision of and in consultation with International
Human Rights Law Institute/ Iraq office

The People's Development Association is a fully independent, nonprofit organization that strives for community development in the Kurdistan Region and in Iraq as whole through implementation of various social projects using civic lobbying and by offering direct services to individuals and groups.

The PDA was established in 2004 as part of the process of nationalizing the NPA's Community Development Program implemented in the Kurdistan Region and Iraq. The PDA was granted its work permit in 2007. Since that time, it has implemented numerous strategic and long-term projects.

The PDA works to establish peace and solidarity among all social groups and to protect human dignity pursuant to international human rights treaties.

Designed by: Faraidoon Rashid

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Preface

The field research entitled “forced marriage: life and a critical destiny) is an activity within the combating forced marriage project which is conducted by the People’s Development Association (PDA).

This project continues to be conducted in partnership with the Norwegian People’s Aid (NPA) and the Directorate of Integration and Diversity since 2009 in Sulaimani and Erbil provinces.

It aims to reduce the rate of forced marriage through a number of activities such as awareness-raising and poster campaigns, media activities, special publications, and discussion events with the concerned parties and bodies aiming at reaching an agreement on an action plan and finding appropriate measures to combat forced marriage. As said, this research is also one of those activities as well.

The target area of this activity is Pishdar and Raniya areas which are taken as samples primarily to show the critical situation of the victims of forced marriage in a sampled area. However, a similar research but on a broader geographical basis- that is throughout the Kurdistan region- could not be conducted due to the limited capacity, otherwise, we are sure that forced marriage is pervasive in many other areas, whose rate may be also higher than that of Pishdar and Raniya. Nevertheless, as data showed, forced marriage is pervasive in target areas of this research. Our working experience through the PDA’s center for combating violence against women which was established three years ago was also helpful to conduct the research successfully.

We hope the conclusions and recommendations of this research will be a serious attempt to demonstrate the critical condition of forced marriage victims in order to be helped by the authorities through taking appropriate measures.

Finally, we would like to thank all of those persons and organizations who contributed to the production of this research, above all the International Human Rights Law Institute because this work was impossible without their scientific consultation.

People’s Development Association

1.	Introduction.....	5
2.	Background.....	6
3.	Methodology	7
4.	Legal framework.....	8
5.	Case Studies.....	11
6.	Role of the Association of Muslim Scholars.....	17
7.	Conclusions.....	18
8.	Recommendations.....	19
9.	Acknowledgments.....	20

Introduction:

My uncle forced me to marry his son, and forced his daughter to marry my brother, without consent of any of us. My brother used to cry and contemplate suicide. We were engaged during the summer of 1979 and married less than two months later. I was so young that my uncle said that he wouldn't let my cousin (and new husband) touch me until I got a little older. My husband was almost eighteen years older than me.

—Excerpt from an interview with a victim of forced marriage (April 25, 2010)

Male dominance and sex discrimination in Kurdish society are a source of pain for females. Throughout (R) history, most victims of violence have been female because of the area's adherence to old traditions and notions of male dominance and control over women. The control men exercise over women causes physical, psychological, and sexual pain for women, and deprives them of their freedom. Forced marriage is one of many traditions that cause great suffering to women and causes many social problems.

Forced marriage occurs when one or both parties to the marriage do not consent to the marriage or only consents because of duress or coercion. In some forced marriages neither the man nor the woman consents to the marriage, but the families of the two parties force the marriage. More often, the man wishes to marry the (usually younger) woman but the woman does not wish to marry. . Forced marriage is a form of violence against women and violates principle human rights and fundamental freedoms, such as the right to choose one's spouse and freely enter into marriage. Victims of forced marriage are often subject to abuse and live in difficult conditions that do not provide human dignity. Although Iraqi Personal Status laws, Sharia law, and international law all prohibit forced marriage, forced marriage continues to exist as a social custom in (k). Many women are unaware that the law protects their right to choose a spouse. Those who are aware of the law doubt its efficacy because women in

forced marriages are often too scared to ask for help and are denied access to the courts by their abusers.

People's Development Association (PDA) conducted field research on forced marriages in Pishdar district, Sulaiymanyah in the (k) Region of Iraq. PDA conducted interviews with victims of forced marriage and other concerned parties, such as victims' families, government agencies, Imams, Tribal Sheiks, and social researchers.

This topic was selected because of the importance of recognizing the phenomenon of forced marriage and the negative impact it has on families and society in general. It is also important to understand how and why this traditional practice continues to exist despite the fact that Sharia law and Iraq's Personal Status laws prohibit it. -PDA's research reveals that forced marriage is based on society's customs and traditions and continues to happen in many parts of (k), especially (R) and its surrounding sub-districts northeast of Sulaimanyah where PDA's research is focused. Victims of forced marriage suffer from family and social problems, such as feeling insecure and a lack of freedom in personal life. Public awareness about the issue is low and many people fail to understand the gravity and illegality of forced marriages. Little has been done by the government to raise awareness of the issue.

Background:

(R) is the name of a town and district located in the northeast part of Sulaimanyah in Iraqi (k). It was founded 2,500 years ago as a small village (R) is known for its water rich land that is well-suited for agriculture. (R) population grew over time because of immigration from surrounding villages and because its location on the Iraqi-Iranian border was promising for business.

Tribal traditions, such as the tradition of forced marriage, impact the community in (R). Many women are not allowed to marry the men that they love or choose their own spouse. Rather than respecting the feelings of their daughters, many families choose who their daughters will marry.

Individuals interviewed by People’s Development Agency (PDA) state that the roots of forced marriage in the area are very deep. A victim’s mother, who was born in 1933, stated that “this phenomenon goes back to the days when I got married, and even before.”

According to one Imam, religious leaders were unable to impact the practice of forced marriage despite the Islamic Sharia being opposed to forced marriage. A core condition for marriage under Islam is the consent of both parties—because forced marriage does not provide for consent of both parties, it is a practice based on no law or religious rules.

Research conducted by the Directorate of Human Rights in (R), the Association of Muslim Scholars in (R), and (k)’s Women’s

Union’s Social Center in (R) revealed that there are 3,736 girls in (R) district (including the sub-districts) who are victims of forced marriage. Between 2004 and 2006, these organizations were only able to free 22 girls from forced marriage and the rest continue to suffer life in forced marriages.

This research is important because it demonstrates that forced marriage continues to be problem for many girls in (R), who are unable to freely make personal choices about their future and marriage.

Methodology:

People's Development Association (PDA) is a non-profit non-governmental organization (NGO) in Iraqi (k). Its goal is to develop society by implementing various development projects, calling for civil pressure on the government, and serving people directly.

PDA used a direct face-to-face interview method for this report because we believe that this method enables the widest collection of information concerning forced marriages, given the sensitive nature of the issue.

PDA selected (R) as a target area for this research because of the prevalence of forced marriage in the district. Statistics received from the Directorate of Human Rights in (R) demonstrated this prevalence and PDA's project "Center for Confronting Violence against Women" assisted in identifying victims of forced marriage. PDA interviewed eight victims of forced marriage in (R) and its surrounding sub-districts. Some of these interviews took place secretly because victims often did not want to discuss their situation while in their own homes. Accordingly, PDA's representative selected different venues for the interviews, such as a neighbor's house or another safe place. PDA also interviewed three witnesses of forced marriages who attested to the negative impacts forced marriage had on the victims, their families, and society.

The victims and their families were hesitant to share their stories with the interviewer. It was difficult for them to express their pain and suffering because reporting the abuse could

cause them societal retribution. Accordingly, this research maintains the confidentiality of victims and their locations.

PDA also met with several concerned persons and agencies, such as an Imam, a Tribal Sheik, a judge from the Personal Status Court in (R), a representative from a women's organization in the area, two social researchers, and the Office of (R) Director for Confronting Violence against Women.

The judge stated that there were no claims filed before the court regarding forced marriage, as of May 26, 2010.

PDA had difficulty finding and identifying victims of forced marriage who were willing to share their stories. This difficulty, combined with limited research time (January 15 – May 31, 2010), resulted in less information being gathered than PDA had hoped for.

Legal Framework: International Law

The Universal Declaration of Human Rights
The Universal Declaration of Human Rights (Declaration) was adopted by the United Nations General Assembly on December 10, 1948. As a General Assembly Resolution, the Declaration is not legally binding on any state, but instead provides guidance for interpreting provisions of the United Nations Charter. Although not legally binding, the Declaration is extremely authoritative and many scholars believe that its provisions constitute customary

international law that can be applied to all states.

With regard to marriage, Article 16 of the Declaration provides:

(1) Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.

(2) Marriage shall be entered into only with the free and full consent of the intending spouses.

(3) The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

The International Covenant on Civil and Political Rights

The International Covenant on Civil and Political Rights (ICCPR) is a multi-lateral treaty that was adopted by the United Nations General Assembly on December 16, 1996, and entered into force on March 23, 1976. ICCPR is a binding treaty that commits all states party to it to its provisions guarantying political and civil rights to individuals. Iraq signed the ICCPR on February 18, 1969 and ratified it on January 25, 1971. Accordingly, the ICCPR is legally binding on Iraq.

With regard to marriage, Article 33 of the ICCPR provides:

1. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.



2. The right of men and women of marriageable age to marry and to found a family shall be recognized.

3. No marriage shall be entered into without the free and full consent of the intending spouses.

4. States Parties to the present Covenant shall take appropriate steps to ensure equality of rights and responsibilities of spouses as to marriage, during marriage and at its dissolution. In the case of dissolution, provision shall be made for the necessary protection of any children.

The Convention on the Elimination of All Forms of Discrimination against Women

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) is a multi-lateral convention that was adopted by the United Nations General Assembly on December 18, 1979, and entered into force on September 3, 1981. CEDAW is legally binding upon all states party to it. Iraq acceded to CEDAW on August 13, 1986, with reservations. These reservations stipulated that, among other things, Iraq would not be bound to CEDAW Article 16:

Approval of and accession to this Convention shall not mean that the Republic of Iraq is bound by the provisions of . . . article 16 of the Convention. The reservation to this last-mentioned article shall be without prejudice to the provisions of the Islamic Shariah according women rights equivalent to the rights of their spouses so as to ensure a just balance between them.

Accordingly, although Iraq is a party to CEDAW, Article 16, regarding marriage, is not binding upon Iraq. Thus, although Article 16 provides that women should enjoy the right to choose their own spouse and only enter into marriage upon their own consent, these provisions are not binding on Iraq. Article 16 provides, in relevant part:

1. States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:

- (a) The same right to enter into marriage;
- (b) The same right freely to choose a spouse and to enter into marriage only with their free and full consent;

2. The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.

Domestic Law

Iraq's Permanent Constitution of 2005

Although Iraq's Permanent Constitution does not directly address issues of marriage, Article 15 of Iraq's Permanent Constitution provides that:

Every individual has the right to life and security and freedom and cannot be deprived of these rights or have them restricted except in accordance to the law and based on a ruling by the appropriate judicial body. Iraq's Personal Status Law

Amended Article 9 of Iraq's Personal Status Law #188 of 1959 provides:

1- No relative or non-relative has the right to force marriage on any person, whether male or female, without their consent. The contract of a forced marriage is considered void if the marriage is not yet consummated. Moreover, none of the relatives or other people has the right to prevent whoever is eligible for marriage from being married by virtue of the provisions of this marriage law.

2- A first degree relative who breaches the provisions of paragraph 1 of this article shall be sentenced to no more than three years imprisonment and charged with a fine of a specified amount. If the person who breaches this provision is not a first degree relative, he shall be sentenced to an imprisonment term varying from a minimum of three years to a maximum of ten years.

3- The Shari'a Court or the Personal Status Court must notify the investigation authorities of any violation of the provisions of paragraph 1 of this article so that they take legal action against the person in question. The court is entitled to hold him in custody to ensure his appearance before the said authorities. Furthermore, the person who was subject to coercion or prevention has the right to refer directly to the investigation authorities concerning this matter

Sharia Law

The consent of both parties to a marriage is necessary for a law to be valid under Islamic law. A marriage is not valid unless both parties

are over the age of 16, both parties consent to the marriage, and there are two witnesses.

Islamic law views forced marriage (marriage without the consent of both parties) as an unfair practice. Islam grants women the right to choose their own husbands because men and women are partners. Forcing someone to marry against his or her will can only lead to an unhappy and insecure life. Under the Sharia, happiness and security are preconditions for marriage. When the conditions of marriage are not met, the marriage contract is void.

Case Studies:

1. Marriage by Physical Force

Marriages in (R) often involve duress and threats against unwilling women. In many cases, women are threatened with murder and violence, and in other cases they are physically attacked with or without weapons, such as knives and boiling water.

(M) was born in 1966 in (R) district. She never knew her father, a (P) who was killed in a fight with the Baath government when (M) was only one month old. Her mother re-married one year after her father's death. Unable to raise her children, (M)'s mother gave (M) to her maternal grandfather's family and gave (M)'s sister to her paternal grandfather's family. (M) never saw her sister again. (M)'s mother never visited and (M) believed that her grandmother was her mother and that her aunts and uncles were her sisters and brothers.

In 1982, when (M) was 16 years old, her uncle fell in love with a neighbor girl. In order to marry the neighbor girl, (M)'s uncle had to promise (M) as a wife to a member of the neighbor's family. The man was 30 years older than (M) and she did not want to marry him. One night (M)'s uncle, accompanied by other (P) men, came to (R) to beat (M) for refusing to marry the man. They beat her unconscious, using knives that left scars that were still on her skin at the time of the interview. For an entire year, she resisted and the men continued to beat her. One day her uncle threw boiling water on her and the scars from that burning remain on her skin. (M) was not able to leave the house and escape from the beatings because she had

nowhere to go and no one to protect her.

(M) did not have any power—she was continuously beaten and unable to defend herself. She was not given freedom to leave her house. She was also in love with her cousin, who repeatedly asked their uncle to let him marry (M), but the uncle always refused. Her cousin suggested running away together, but (M) refused, saying “I don't want to get a bad reputation. Let me be the victim.”

(M) was finally forced to marry the neighbor man under weapon's threat. The Imam who ran the religious wedding never asked for her consent to the marriage and (M) was so scared that she was unable to say a word. On her wedding day, she locked herself in a room until her sisters-in-law came and took her to the man.

(M) said, “I didn't let him touch me for four months, until my uncle came one day and they tied me up to let my forced husband have sex with me. After two years in the marriage, they took me to the court for a civil marriage. I couldn't say no in front of the judge; they threatened to murder me if I disagreed.”

She hated her husband so much. When people came to the house, they always thought her husband was her father because of the great age difference between the two.

Fifteen years into the marriage, (M) has two sons and two daughters and takes care of the children by herself. She was always crying and sad and could do nothing about it. She tried to commit suicide by burning herself once and by hanging herself another time, but her grandmother prevented her. She was covered in bruises, so she was taken to a hospital. When they asked her why she attempted suicide, she replied "I am tired of life in my house." She suffered depression for five years and was often fatigued.

(M)'s aunt-in-law says, "I tried so hard to prevent this marriage. I told my sister-in-law

it was unfair to have such a marriage because (M) was still a child, but no one would listen to what a woman had to say. . . We didn't know that forced marriage was forbidden by the Sharia because the Imams at that time never asked girls if they consented to marriage, they only asked who her representative was, and even when they knew the marriage was by force, they didn't consider it Haram [forbidden by Islamic law]."



2. Promised to Marry as a Child

Forced marriage can affect both boy and girls when their families promise them in marriage without either party's consent. (Z)s case demonstrates this.

(Sh) Ahmad Wsu was born in (R). She is now a 10th grader and has two sisters and four brothers. Her family has good relations with their uncles' families. Her father is the eldest of five brothers. Her father married and made his home in the extended family's home along with his brothers. The youngest brother Hussein was single. When (Sh) was two years old, her father went to ask for a girl to marry Hussein. The girl's family asked for two girls in return as the price for their daughter. That same night, (Sh)'s mother gave birth to another baby girl. Their father promised (Sh) and the newly-born girl as dowry for Hussein's wife. The promise was written in a contract.

When (Sh) was very young, her cousins would tease her and say "this boy (Ali) is your husband." She would cry because she didn't know what it meant as they would tease her and call her "Ali's fiancé." (Sh) hated this. She would constantly cry and ask her mother why they called her that and what it meant. She came to realize that she and her sister were dowry for her uncle's wife. (Sh) never liked her uncle and thought he was trying to deceive her by buying her new clothes and giving her money. As she got older, her school mates would always ask her if she was married or engaged.

"Why did my father do this to me?" (Sh) asked. "He probably hated me and just wanted to get rid of me."

One day she asked her father why her uncle could marry the woman he loves and wants to marry, but she had to marry someone she didn't like. She learned that if her father broke his promise, he would have to pay the other family about 10,000 Iraqi Dinars for each of his daughters.

Later, (Z) was able to explain her situation to a social researcher at her school. The social researcher told her about a women's center in (R) where the researcher worked. The researcher offered to meet (Z) there to further discuss her situation. The center asked Ali to come to the meeting as well, but he replied "I have nothing to do with you. I need to meet (Sh) somewhere alone to decide." (Sh) refused to meet Ali alone.

One day a human rights team with an Imam from the Association of Muslim Scholars came to the school and told the students that any victim of a forced marriage could register her name with the team and have her marriage annulled. With her neighbor's help, (Sh) contacted the Imam. The Imam then contacted (Sh)'s father and arranged for him to pay a sum of money to (U)s family to prevent the forced marriage.

He did not end (Sh)'s sister's marriage, however: "I was so sad to see this great oppression on my daughter at such an early

age. We were so happy the night that the Imam ended the marriage. I was always sad to see my daughter crying and heartbroken. Thanks to god, we ended that marriage, but we still do not know the fate of our younger daughter.”

3. Married as Compensation for Murder

In many cases of forced marriage, women are victims of animosity between two families or tribes. Women are used to resolve social problems; they are presented as compensation for murders or other misdeeds, often without the woman's consent or knowledge.

(Ma) Khdr Ibrahim was born in 1965. She was raised by a poor family with two daughters and five sons. Her eldest brother wouldn't allow her to attend school after the second grade. Her mother was the family's breadwinner because (Ma)'s father was sick. The old regime relocated their family to the camp, which is part of (R) district.

During the winter of 1982, (Ma)'s brother, who was already in a forced marriage, fell in love with a girl from the village. "She was the one I wanted," he said. His love for this other girl was a problem for that girl's tribe and men from that tribe murdered the girl's sister-in-law, believing she was the one that (Ma) loved. The tribe's men asked to meet with (Ma)'s tribe for reconciliation. The tribal meeting resulted in five girls from (Ma)'s tribe being promised to the other tribe. (Ma) was one of those five girls. The other tribe had demanded that (Ma)'s tribe murder (Ma)'s brother, but the girls were offered instead. (Ma) explains, "My brother had no power, he loved us, but said it would be a shame to murder a boy." "I was only 13 years old when they wanted me to marry," she continued, "and all I could do was cry."

On the day of the religious wedding, (Ma) was taken to her eldest brother's house. (Ma) did not realize that she was to get married that day

and that the Imam had been invited to perform the marriage. When she realized what was happening, (Ma) hid herself in the barn, but her eldest brother, who was carrying a knife, came and found her. As he pulled her from the barn, he said, "I won't let my brother get killed" and threatened to murder (Ma) if she did not agree to the marriage. (Ma) says, "He kept forcing me the entire day."

(Ma) added, "My wedding was in the fall of 1983, . I knew nothing about marriage and family—no one had told me anything, and I was scared of my husband to approach me at night. Nine months later, I was taken to court for the civil ceremony. When the judge asked whether I agreed to the marriage, my husband told me to say yes, so I did."

"He and I do not get along. I have four daughters and three sons now. My husband beats me, abuses me, insults me, and reminds me that I was given away as a compensation for a murder and that he did not marry me for love. He has also sent me out of the home several times. I could never mention his mistreatment towards me to my family because I didn't want to ruin the reconciliation."

"One day I told him that I was going away and leaving everything. No one would know where

I am. I have tolerated all his mistreatment and stayed with him for the sake of the children. He doesn't love me and constantly he reminds me of that."

(Ma)'s mother says, "Reconciliation between wise men from both tribes ordained our tribe to promise five girls to compensate for the murder of one of their girls. Otherwise, they demanded that one of the tribes kills my son. (Ma) was one of the five girls. She was only 13 years old, and we promised her to the murdered woman's brother. I could say nothing. Even if I had disagreed, no one would have cared. Men are the decision makers. If we hadn't agreed to the reconciliation, my son would have been killed which would have shamed the tribe. I was so scared of losing my son, but at the same time it hurt to let me daughter go like that. I could do nothing but cry."

The court has no role in (Ma)'s case, in terms that they have no documentation of that case in the court. While the Muslim Scholars' Association believes "the religious men had the biggest role in the Kurdish traditional society's problems, we can say they used to fit the judges shoes. And if we define



Role of the Association of Muslim Scholars:

The Association of Muslim Scholars believes that religious men have a key role in resolving traditional Kurdish societal problems. Religious leaders fill the shoes of judges. Although Islam prohibits forced marriage, it occurs frequently. Forced marriage often occurs when a father takes advantage of the situation and substitutes his own consent to marriage for the consent of his daughter.

The director of the Association of Muslim Scholars in (R), described what the Association is doing to prevent forced marriages:

In 2002, the Association informed all Imams in the district, through a formal note, that no Imam was allowed to conduct a religious marriage over a young girl before the age of consent or over a marriage where the girl was offered for tribal reconciliation. When violations occurred, the Imam were contacted and told to sign an oath vowing not to perform such marriages in the future. The Association has voided marriages occurring under those situations because they are not Halal [lawful under Islamic law].

In 2004, in cooperation with (k)'s Women's Union Center, we formed a committee, headed by the Directorate of Human Rights, in order to identify victims of forced marriages and free them from those marriages. The committee had no funding to pay for the freedom of these girls, however. Limited funding was obtained from well-wishers and government officials who donated 3 million Iraqi Dinars. The Association assigns 500,000 Dinars to freeing one girl.

Conclusions:

Based on twenty interviews conducted in (R) with victims of forced marriage and other actors, including Imams, Women's Organizations, the Human Rights Office in (R), the Personal Status Court in (R), and the Office for Confronting Violence against Women, our research concludes:

- Victims and their families are unaware of the laws protecting them from forced marriages;
- The Association of Muslim Scholars has been negligent in directing forced marriage;
- Most of the religious ceremonies for forced marriages are conducted by Imams;
- The Personal Status Court has no documentation of forced marriages in (R);
- Most victims and their families have a low level of education;
- The economy has no impact on forced marriage;
- The government does not actively raise people's awareness about forced marriages;
- Victims are afraid of their family members and unable to ask for their rights in court;
- Most victims were under the legal age for marriage (18 years)—some were even infants;
- All victims interviewed were unhappy living with their husbands.

Recommendations:

- The (k) Regional Government's parliament should approve the forced marriage bill that was submitted by the Directorate of Human Rights in (R) and ratify the draft law regarding violence against women;
- The government should conduct awareness-raising activities through concerned agencies, such as the Ministry of Awqaf and Religious Affairs;
- Governmental and non-governmental organizations should conduct seminars and activities aimed at raising public awareness;
- The Directorate of Confronting Violence against Women should conduct more research on forced marriages;
- The government should enact a law creating women's shelters and the standards for running them in order to ensure that they are safe places for women;
- The media should campaign against forced marriage through radio and television shows that depict the negative impacts of forced marriage.

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- Director of (k)'s Association of Muslim Scholars in (R);
- Sheik of the AKOYAN tribe;
- Director of the Directorate of Human Rights in (R);
- Staff in the Confronting Violence against Women Center in (R).

