

DISSECTING LEBANESE LAW 293 ON DOMESTIC VIOLENCE: ARE WOMEN PROTECTED?

Fatima Moussawi

Researcher and Project Coordinator, Civil Society Actors and Policy-making Program, Issam Fares Institute for Public Policy and International Affairs, American University of Beirut

Nasser Yassin

Director of Research, Issam Fares Institute for Public Policy and International Affairs, and Professor of Health Policy, Faculty of Health Sciences, American University of Beirut

Summary

This Policy Brief is based on research that explored the process of establishing and implementing Law 293, and on a policy dialogue that took place at the Institute on March 8, 2017 to discuss the status of the law, its effectiveness, and the recommendations ensuring an efficient protection of women from domestic violence (DV).

MAIN FINDINGS

- ▶ Only 175 official protection orders were released since the statement of Law 293 till today;
- ▶ Fourteen Lebanese women were killed in domestic crimes after the statement of Law 293;
- ▶ The law is not able to protect a significant number of refugee women exposed to domestic violence;
- ▶ The Courts of Urgent Matters have limited capacity in issuing orders and in handling domestic violence issues.

MAIN RECOMMENDATIONS

- ▶ The Parliament is advised to work closely on enacting equitable policies that bridge gaps between men and women;
- ▶ Civil society actors need to work on raising awareness regarding domestic violence and about the use of Law 293;
- ▶ Legal authorities are highly advised to unify the interpretation of Law 293's limited legal text;
- ▶ It is necessary to establish a national fund in order to help the victims of domestic violence.

In 2014, the Lebanese Parliament introduced a law that aims at protecting women and the rest of family members from DV and physical abuse. The draft law that faced political and religious hindrances, found its way to the legislative committee of the Parliament and later to the final legislative session through a systematic activism and advocacy by civil society. It is the impression that such a campaign, as commendable as it was, happened when political conditions favored the enactment of DV law over the statement of other projected laws such as the "Nationality Law", a long-term demand by Lebanese civil society actors.

Background & Problem statement

Domestic violence (DV) is not a recent issue facing the Lebanese society (Usta, 2007) however it began to receive more public attention in the last 20 years, given the presence of multiple factors. We list, among these factors, the rise in the number of crimes in parallel to the increased coverage of research, media and social media, which resulted in the creation of public anger towards the official silence and lack of governmental reaction (Khadra et al., 2014). The UNFPA (2010) reported that 55% of women in Lebanon were exposed to either verbal or physical violence. Another report mentioned that between 2010 and 2013, 26 Lebanese women were killed in domestic settings (El Choufi, 2014).

“The need for a law that addresses the domestic context of violence became a national necessity especially with the expanded role of civil society and feminist organizations”

Despite these numbers, the Lebanese legal framework until recently lacked a text that criminalizes domestic violence and crimes. Regardless of the presence of the criminal law’s “article 550” that arrests a murderer or a suspect in light of the occurrence of a crime, the process of criminalizing a domestic crime or abuse through the use of this article was deemed to be difficult. The need for a law that addresses the domestic context of violence became a pressing necessity especially with the expanded role of civil society and feminist organizations that advocated for legal and policy reforms as a tool to address DV. Additionally, Lebanon has committed to a number of international conventions and treaties related to gender issues and women’s rights, most importantly the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) in 1996, which held Lebanon responsible in the eyes of the international community, and therefore pressured Lebanese officials to adhere to international agreements.

After the law statement: The legislation was passed by the Lebanese Parliament in 2014 after the parliamentary committee included major amendments on the draft submitted by KAFA¹ and the national coalition. KAFA

¹ KAFA is a Lebanese feminist non-governmental organization. KAFA’s initial focus is on domestic violence in addition to child abuse and the issues of abuse against domestic workers. KAFA chose the pathway of advocacy in the issues of domestic violence and in advocating for the rights of domestic workers.

and the coalition raised objection to the stated form of the law while still considering the law itself a victory for a legal protection from domestic abuse. The law that was supposed to protect women from various kinds of domestic abuse was, despite its importance, modestly efficient; only 175 protection orders were released between 2014 and 2016 compared to the significant number of DV cases that occurred in these three years (El Hajj, 2016). Moreover, newspapers and media channels stated that 14 women were killed between 2014 and 2016, which draws serious questions about the effectiveness of the law in protecting women and the ability and readiness of women to use it.

Identified gaps in Law 293

Economic obstacles faced by abused women

Lebanese women exposed to domestic violence are not able to fully rely on Law 293 due, in most cases, to economic factors. Filing a case against an abusive/violent husband would require an economic empowerment that is absent among most of the abused women. Most of the abused women lack an alternative economic resource in case of the absence of their husband, or outside the marital house. In such a case women do not prefer a legal solution, as they and their children are economically dependent on the husband.

Child custody

Another factor working against women benefiting from this new law is child custody. Child custody in Lebanon is a sensitive matter, both in the context of religion, as well as society. It is a subject that falls entirely under the authority of religious courts. Each of the religious sects had set an age for child custody ranging from 2 to 12 years old. This reality prevents any minor under the age of 18 from the guardianship of the mother if she decides to protect herself from the violence of an abusive husband.

The authority of the courts & the limitation of the legal text

The implementation of Law 293 is stated under the authority of the Courts of Urgent Matters, according to the text of the law. These courts have limited capacity in issuing orders and in handling DV issues due to their logistics as they are in charge of many other legal subjects. This point does not allow Urgent Matters’ judges to swiftly complete efficient investigations about the DV cases at hand. One of the judges mentioned that 30% of the cases admitted in one court were intentionally misreported.

Another issue is the restriction of the legal definition of violence pertaining to its physical form. Few judges expanded on their definition of violence to cover the verbal, emotional, sexual and economic violence. However, this expansion in reading the text is related to the individual initiative of a judge and not to the legal text itself, placing abused women at the mercy of the wide explanation of a restricted text.

Limited awareness about the existence of the law

A KAFA study noted that after two years of passing Law 293, one-third of a representative national sample is still not aware of the presence of the law. Additionally, a significant number of the respondents still believe that DV issues should be handled within a family setting (KAFA, 2016). In the city of Baalbek for example, only one protection order was issued since 2014, which raises the question in regard of the awareness of women, in that region, about the existence and the efficacy of Law 293.

In parallel to the limitation in awareness among women, which might affect the use of the law, it was reported that a deficiency in the awareness about Law 293 exists among lawyers themselves. (In a training held by an NGO, only 3 out of 45 certified lawyers were knowledgeable of Law 293.)

The law does not protect refugee women

Though Law 293's implications have been authorized to protect all women present on the Lebanese lands, refugee women who are exposed to violence are not able to resort to the Internal Security Forces' help in case of illegal residency in Lebanon or if they are residents in camps. Refugee women who might be exceedingly exposed to different kinds of domestic and sexual violence are not, therefore, able to benefit from legal protection.

“Refugee women who might be exceedingly exposed to different kinds of domestic and sexual violence are not, in most of the cases, able to benefit from legal protection”

Recommended responses to the loopholes

In response to the limitation of the courts' logistics and the legal text

The Lebanese government needs to create specialist courts and appoint specialized judges to address DV issues, given that these cases do not fall under the expertise of the Courts of Urgent Matters.

In regard to the wide interpretation of the text and in the light of its current form, the “Higher Council of Courts” is required to work on unifying the interpretation of the limited and ambiguous legal text of the law. This aims to include the different forms of violence listed by all the judges and therefore to ensure an improved implementation of protection from all kinds of violence.

In response to the limited awareness among women and society

There are still significant reasons to work on raising awareness regarding DV issues and about the presence of the law, and the mechanisms to use it, among Lebanese NGOs, schools, and universities, in all the Lebanese governorates. Awareness about the law should not be restricted to the work of CSOs but also to the activities of the Ministry of Social Affairs and the municipalities. In parallel, the syndicate of lawyers is requested to provide continuous and systematic trainings for lawyers about the law, other related laws and the advanced mechanisms in approaching victims.

“The government is strongly advised to provide a rigorous supervision on the functioning of the multiple religious courts operating in Lebanon especially in family-related issues”

In response to the current performance of the government regarding personal status issues

The government is strongly advised to provide a rigorous supervision on the functioning of the multiple religious courts operating in Lebanon especially in family-related issues, such as divorce, inheritance and custody. Additionally, the government is requested to commit to all the international conventions and treaties it has approved and signed, the “CEDAW” in particular. The government is also responsible for protecting refugee women exposed to DV according to the International Law 13/25 that targets women in times of conflicts and emphasizes on ensuring protection from domestic and sexual violence.

The importance of a parliamentary follow-up and governmental collaboration

The Lebanese Parliament needs to review the law related to DV and also to revisit different laws that have related impacts. The Parliament is also invited to play its supervisory role and not to restrict itself to a legislative role in following up on the laws established throughout the years. It is also required to work closely on policies that can bridge the gap between men and women in Lebanon in different domains such as labor, education, employment, which in one way or another will prevent different forms of violence against women.

In response to the limited economic empowerment for abused women

The government is recommended to establish a national fund in order to help DV victims. A proper shelter that can receive abused women, away from the marital house in all the Lebanese regions is also an absolute necessity.

Further steps for civil society organizations

Given that the amendment of Law 293 is not on the current agenda of the Lebanese Parliament, CSOs are recommended to make use of the law in its current form and enable women to use it and benefit from it. This approach will help CSOs to construct experiences and accumulate testimonies through using it in different contexts. These practices and evidences can be used as advocacy tools for the coming women's movement to rectify the flaws of Law 293.

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Civil Society Actors and Policy-making

The increased role of civil society actors is a major recent phenomenon attributed to the advancement in communication as well as to the social, political and economic transformations. This program looks at a wide spectrum of civil society actors and their role in policy-making. We study how civil society actors organize themselves into advocacy coalitions and how policy networks are formed to influence policy processes and outcomes. We also look at policy research institutes and their contribution to the translation of knowledge to policies. The media's expanding role, which some claim to be a major player in catalyzing protests and revolutions in the Arab world, will also be explored.

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✉ AUB Policy Institute (Issam Fares Institute for Public Policy and International Affairs)
American University of Beirut
P.O.Box 11-0236
Riad El-Solh / Beirut 1107 2020
Lebanon

📍 Issam Fares Institute Building
AUB
☎ 961-1-350000 ext. 4150
☎ +961-1-737627
@ ifi@aub.edu.lb
🌐 www.aub.edu.lb/ifi
f aub.ifi
🐦 @ifi_aub

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