

كسر القوالب Breaking the mold

#Breaking_The_Mold

Arab Civil Society Actors and their Quest to Influence Policy-Making

Country: **Morocco**

A Reading of Law 103.13 on Combating Violence Against Women in Morocco

| Mohammed Sheikh Banane |

HISTORICAL CONTEXT OF VIOLENCE AGAINST WOMEN

Violence against women means acts leading to sexism and results in, or is likely to result in, harm or suffering to women, whether physically, sexually or psychologically, including the threat of such acts, coercion or arbitrary deprivation of liberty, whether in public or private life¹.

Accordingly, and due to the exacerbation of violence against women and its consequences in heinous violations that disturbed the national public opinion, especially after a woman was killed and two committed suicide (2009)², the High Commission for Planning conducted national research on the spread of this phenomenon. The research concluded that 9.5 million women, between 18 and 64 years old, approximately 6 million women or 62.8%, were exposed to some form of violence during the twelve months preceding the research, i.e., in 2009, which was completed in 2011; among them, 3.8 million live in urban areas and 2.2 million in rural areas³. In the same context, the National Observatory for Violence against Women recorded in 2009 26077 violent acts against 4044 women who visited 10 listening centers supervised by the observatory associations in several Moroccan cities⁴.

As a result of the absence of a relevant effective public policy, physical violence against women increased significantly between 2013 and 2014, as it increased from 54.8% to 63.3%. According to the latest report of the UN Women Office in Morocco, in November 2016, the number of Moroccan women subjected to violence and

harassment in public places reached 2.4 million⁵. However, the Ministry of Solidarity, Women, Family and Social Development also recognized, in its first annual report on violence against women in Morocco, an increase in physical violence rate, reaching 63.3% in 2014, compared to 54.8% in 2013. Violence against women continued in 2017, as the Federation of Women's Rights League in Morocco recorded more than 10,000 cases of violence against women⁶. The preliminary results of the second national research on the prevalence of violence against women, which was completed at the beginning of 2019, concluded that the phenomenon nationally is estimated at 54.4%: 55.8% in the urban field and 51.6% in the rural area⁷. However, discrimination prevailing, due to the traditional male domination deriving from the religious and cultural heritage, discriminatory social upbringing and socio-economic constraints, was the most significant reasons behind the spread of this phenomenon, especially that the highest percentage (43.62%) of women victims of violence who requested the services of the National Observatory for Violence against Women are housewives, followed by the unemployed category at 16%, and then employees at 13.67%⁸. The High Commission for Planning confirmed it after it concluded that 23% of victims of physical violence are unemployed, followed by 14.1% of active female workers⁹. This indicates that the involved women are neither economically independent nor unemployed¹⁰.

5 - (Blackbear, 2018, p. 107)

6 - (El-Salahi, 2017. "Morocco ... more than 10 thousand women were subjected to violence in 2017.")

<https://www.aremnews.com>

7 - (El Hakkaoui, 2019. "Study: %54.4 prevalence of violence against women in Morocco." <https://www.medi1.com>)

8 - (Moroccan Observatory on Violence against Women, previous reference)

9 - (scientific, previous reference)

10 - (The Moroccan Observatory on Violence against Women, previous reference)

1 - (United Nations, Human Rights, High Commissioner. 1993. Declaration on the Elimination of Violence against Women). <https://www.ohchr.org>

2 - (Moroccan Observatory on Violence against Women, Eyes Women. 2010. The second annual report).

3 - Scientific, 2011)

4 - (The Moroccan Observatory on Violence Against Women. Previous reference).

The foregoing indicated that violence against women is widespread. It is socially characterized by high rates of poverty, fragility, and class and domain differences, as Morocco is considered within Group 2 along with Iraq¹¹, as the spread of poverty of both types, multidimensional and monetary, reaches 11.7% of the citizens, or almost 4 million people¹².

In light of this situation, civic activists resorted to organizing numerous campaigns, seminars and rallies to arouse public opinion to exert pressure on the decision-maker, to issue a law protecting women from violence.

VIOLENCE AGAINST WOMEN IS ON THE AGENDA OF URBAN EVENTS

During the last ten years, and as a result of the emerging transformations in all society's fields, civic activists have been able to break the silence regarding violence against women by advocating through the media, public mobilization, publicizing the issue seminars and forums, and issuing reports.

This resulted in the framing of this issue, through the civil society demanding the government to issue legislation criminalizing violence against women and preserving their dignity, after this phenomenon is threatening the society as a whole, due to the exposure of many Moroccan women to violence, injustice and discrimination, and among them, Amina al-Falali, who committed suicide in 2012, after she was married to her rapist, according to Article 475¹³ of the Criminal Code, and its consequent in a widespread condemnation of civil and political actors demanding the issuance of legislation to combat all forms of violence against women. This prompted the decision-maker to set this issue in the public policy agenda in the legislative part, as the draft bill No. 103.13 on combating violence against women was presented to the Government on November 07, 2013, in light of a serious debate between the political and civil components about its contents, to be amended according to the observations made by a group of government sectors and some civil and national bodies and institutions - although most of the modernist-oriented women's organizations boycotted the debate on the bill, which was led by Minister Basima Hakkawi, who belongs to the Brotherhood's Justice and Development Party that presides the government since 2011 - for the government to ratify it on March 17, 2016, then refer it to the Parliament. The latter approved it on June 22, 2016, but the House of Councilors did not ratify it until January 30, 2018, after making some amendments, to be then definitively ratified by the Parliament on February 14, 2018. It was issued in the Official Gazette in Issue 6655 on March 12, 2018, and it came into effect on September 12, 2018.

It is worth mentioning that this law consists of six parts: In the first part, violence against women was defined as: "Every physical or moral act or abstention based on gender discrimination results in physical, psychological, sexual or economic harm to women". It defines each of physical, sexual, psychological and economic violence. The second part focused on the injunctions, according to which some articles of the criminal law group have been amended to be in line with this law's contents. And the third part presented the provisions of the procedures that completed and modified the criminal procedure provisions. The fourth part included the mechanisms for guaranteeing women victims of violence, including creating joint cells and committees among ministerial sectors nationally, regionally and locally. Finally, the fifth part briefly stipulated measures and initiatives to prevent violence and



obligate public authorities to adopt all necessary measures and procedures to prevent violence against women. It concluded with the sixth part for the beginning of the law's implementation.

Regarding the permanent political measures, the government adopted the "Tamkin Program"-which means in Arabic "empowerment"- to combat gender-based violence in 2008-2011. In June 2013, the government ratified its plan for equality, "Ikram 1"- which means in Arabic "praising"- regarding the equality, which extended during 2012 and 2016. It formed the Ministerial Committee for Equality and created the National Observatory on Violence against Women¹⁴. In the same context, it adopted the second version of the government plan for equality, "Ikram 2," for the period 2016-2021¹⁵.

THE ROLE OF CIVIL ACTORS IN ISSUING LAW NO. 103.13

Civil society actors consisted of women's and human rights organizations and international organizations¹⁶. They tried to express the aspirations of women who face all kinds of violence, especially that most of them suffer from vulnerability and illiteracy. Civic actors adopted numerous methods in pleading concerning violence, including the petition signed by almost 80 women's organizations and the associations of Spring of Dignity and the National Networks of Listening Centers, which met on November 6, 2013. They addressed the Ministry of Solidarity, Women, Family and Social Development, asking it to review the contents of bill No. 103.13¹⁷. Several campaigns were also launched, such as the "No Tolerance for Violence against Women" campaign, launched by several civil societies in cooperation with the European Union during February 2014¹⁸, and the "Listen_to_me_even" (أنا اسمعني حتى أنا) campaign, which the European Union contributed to launching in Morocco on November 25, 2018, which

14 - (Ministry of Solidarity, Women, Family and Social Development, 2016-2012 outcome)

15 - (Ministry of Solidarity, Women, Family and Social Development, 2018, Challenges and Opportunities to Achieve Gender Equality and Empowerment of Rural Women and Girls)

16 - (Walsh. 2016. Morocco: Letter on Bill No. 13-103 on combating violence against women. <https://www.hrw.org>)

17 - (Avaaz. 2013. Revision of Bill No. 103.13, on combating violence against women.) <https://secure.avaaz.org>

18 - (An-Nahar. 2014. Morocco: Launching a Campaign Zero Tolerance for Violence against Women.) <https://www.annahar.com>

11 - (Economic and Social Commission for Western Asia. 2017. "The Arab Report on Multidimensional Poverty") <https://www.unicef.org>

12 - (scientific, previous reference)

13 - This article was annulled from the Moroccan Penal Code in 2014.

consists of short videos series on social media¹⁹. And last but not least, the hashtag “Hakkawi, grant me my right” (الحقاوي عطيني حقي), that was launched by Human Rights Watch in 2016, to exert pressure on Minister Basima Hakkawi²⁰.

It worth mentioning that some civic actors have accepted the launch of joint annual awareness campaigns with the Ministry of Solidarity, Women, Family and Social Development since 2013, including the National Awareness Campaign No. 13 to Stop Violence Against Women in 2015 under the slogan “Last Warning ...! ... Violent man shall be punished”, then the National Awareness Campaign No. 14 to Stop Violence Against Women in 2016 under the slogan “Violence against women is villainous ...! Respecting women is «manhood»”²¹.

In terms of forms of the internal organization of these events, they relied on the official organizations that have legal licenses and interacted through their internal bodies, executive offices, national councils, and local, regional and local branches, with the violence targeting women, through their volunteer activists, whom most of them organized hearings, sent messages to the relevant authorities, issued communications, and conducted legal advocacy as a civil party in many cases²².

Those as mentioned earlier contributed to making civil actors centralize their roles by coalitions, such as the Coalition for Dignity and National Observatory for Violence against Women, and launching campaigns, marches, organizing seminars, issuing joint memoranda, and calling on the government to make amendments to Bill No. 103.13²³.

Briefly, and based on the samples we adopted, we did not notice a significant impact in the direction of consolidating the methodology of networking and its sustainability and unifying the work of the actors who participated in the pleading, as their alliances were circumstantial and ended after the promulgation of the law, which is due to the different political orientations that are governed by different ideological positions and political affiliations, such as the position on the form of government and its powers, or belonging to the left, right, or center.

STRATEGIES AND TACTICS ADOPTED BY CIVIC ACTORS

Most of the civil organizations relied in their advocacy campaigns on investing the universal system of human rights, particularly those ratified by Morocco, on the one hand, and constitutional guarantees on equality, mainly Articles 19 and 22 of the 2011 Constitution, on the other hand, as they included their relevant contents of its speech addressed to the decision-maker, political parties, trade unions, the rest of the allied civilian components, and the various media outlets²⁴. They also participated in dialogues with the Ministry of Solidarity, Women, Family and Social Development, as it monitors this bill.

INFLUENCING FACTORS: IN THE PRAGMATISM OF CIVIL ACTION

Many factors have combined to make a positive impact in civil society's activities, including the regional context that played a helpful role in overcoming the fear and the support of international organizations for national civil actors. On the domestic level, the royal establishment responded to some of the civil demands of women, such as amending the Personal Status Code in 2003 and calling for the promotion of women's participation in political life²⁵ etc., which was a positive impact on the performance of civil activities, on the one hand, and Morocco's ratification of some relevant international treaties, despite reservations on some articles, such as the Convention on the Elimination of All Forms of Discrimination Against Women, on the other hand, and the decentralization of conservative forces strongly within the second chamber of the Parliament, as this council was able to influence, relatively, the amendment of bill No. 103.13, on the third side, as well as the opinion of the National Council for Human Rights²⁶, and the presence of progressive and semi-liberal parties in the government that is led by a conservative party, on the fourth side.

Those, as mentioned earlier contributed to promulgating the law on combating violence against women, in its current version, despite the observations on some of its contents.

The modern civil actors focused on the methodology of its development, content and method of ratification that conflicts with the participatory methodology, its dependence on privacy, cultural and religious identity, and its contentment in the restraining approach against the comprehensive approach that merges various fields of economic, cultural, political and legal violence and defines the state's responsibilities in these fields²⁷. This is due to the law, as mentioned above, was limited to introducing partial and separated amendments related to the criminal law and did not meet the need for a comprehensive law on combating violence against women. It also brought together a group of society such as ancestors, minors, spouses, sponsor, and the person who has guardianship or authority over the perpetrator or who is entrusted with his care; thus, it did not succeed in targeting those forms of violence that are only against women, due to the gender. It did not prohibit acts of violence, such as theft, fraud and breach of trust in marriage. It also neglected the criminalization of marital rape and some forms of psychological and economic violence. It did not refer in any way to the legal protection of several groups of women; among them are single mothers, where violence against them reached 23%, and unmarried and migrant women and women with special needs. It did not allow civil society organizations to file complaints on behalf of the victims without their consent in the same context.

Accordingly, several organizations called for reviewing it to be in line with the United Nations standards and the provisions of the Istanbul Agreement²⁸ by adopting a truthfully participatory methodology and mandatory measures according to the law is compatible with international human rights charters and with the Convention on the Elimination of All Forms of Discrimination Against Women particularly, to be enrolled in a comprehensive strategy for real equality without restrictions²⁹.

19 - (Mirrors. 2018. #Listen_to_me_even: The European Union in Morocco is participating in the campaign to combat violence against women.) <http://marayana.com>

20 - (Goud. 2016. “Hakkawi, grant me my right”, the campaign launched by the Human Rights against the veiled minister) <https://www.goud.ma>

21 - (Ministry of Solidarity, Women, Family and Social Development, 2016-2012 outcome. Previous reference).

22 - (Moroccan Association of Human Rights, 2013)

23 - (Moroccan Observatory on Violence against Women, previous reference)

24 - (Banwa Karim)

25 - (Mohamed VI. 2011. Speech 09 March) <https://ar.wikisource.org>

26 - (National Council of Human Rights, 2016)

27 - (Moroccan Association of Human Rights, 2018)

28 - (EuroMed, 2018. Morocco: Facts about violence against women) <https://euromedrights.org>

29 - (Moroccan Association of Human Rights, 2018, the previous reference)

However, some conservative civic actors addressed the absence of criminalizing media violence that is committed through visual or written media, the Internet or advertising billboards, and which exploits the woman's body in a way that makes it the most dangerous form of violence, if it is not the main source. It is also worth mentioning the absent representation of legal and religious institutions in establishing national, regional and local cells and committees that can be a mediator in resolving family disputes, given their specialization in the legal and jurisprudential aspect, and why not creating institutions for family mediation, given that this law focused on violence against family members, which shall be put as a headline, as long as it is not limited to the forms of violence against women³⁰.

PASSAGE OF BILL 103.13: LIMITED TRANSFORMATION

The forthcoming end of the legislative mandate 2011-2016 was a limited transformative moment and contributed to ratify bill No. 103.13 by the government on March 07, 2016, after it had kept it since November 07, 2013, to refer it to the First Chamber that ratified it also on June 22, 2016, but the Second Chamber did not ratify it until January 30, 2018, after some amendments were made to it. In a political context, it was marked by a dramatic change in the leadership of the Justice and Development Party and the continued registration of serious violence against women, as there were 92 murders recorded in 2015 and 81 murders in 2016³¹.

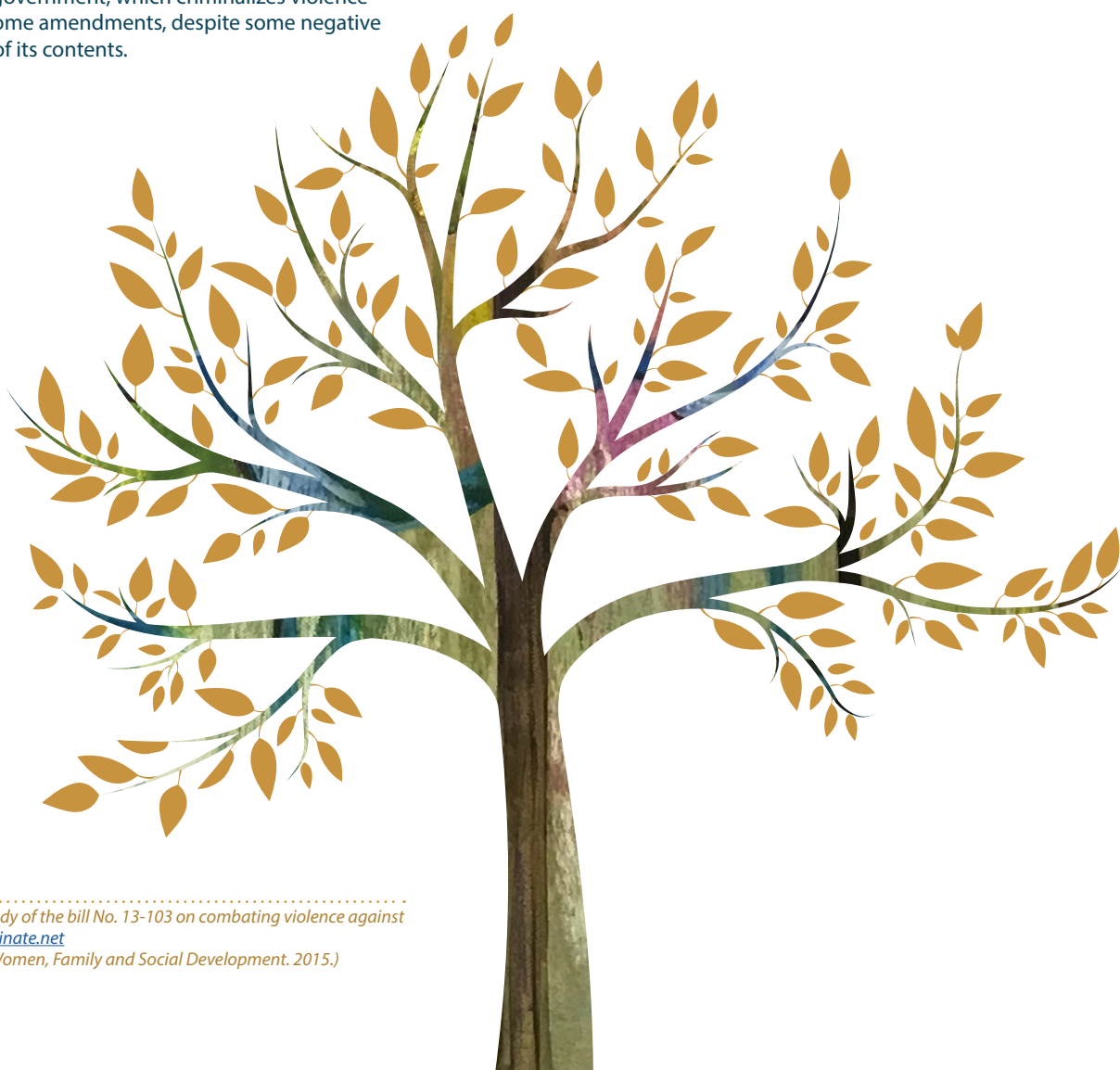
POLICY RESULTS

Civic actors were able, on the one hand, to invest the potentials of the regional and international context to provide help, and the premises of the Family Code, on the other hand, in shedding light on violence against women; thus, they contributed to issue Law No. 103.13 by the government, which criminalizes violence against women, after some amendments, despite some negative observations on some of its contents.

CONCLUSION

By studying this case, the following is evident:

- The ability of civic actors to make an impact, in a conservative social and political environment, by using the facts of the political circumstance and the historical context, to strengthen the pleading in combating violence against women;
- The weak networking among most civic actors, as a result of the diversity of repressive political backgrounds, despite the agreement on the same demands;
- The ability of Law No. 103.13 to develop in the direction of adopting the global system of human rights and following its injunctive guarantees, which lead to the adoption of measures of prevention, protection, care and non-impunity.



30 - (Idris. 2017. A critical study of the bill No. 13-103 on combating violence against women.) <https://www.mouminate.net>

31 - (Ministry of Solidarity, Women, Family and Social Development. 2015.)

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BREAKING THE MOLD PROJECT

In mid-2018, the "Civil Society Actors and Policymaking in the Arab World" program at IFI, with the support of Open Society Foundations, launched the second round of its extended research project "Arab Civil Society Actors and their Quest to Influence Policy-Making". This project mapped and analyzed the attempts of Arab civil society, in all its orientations, structures, and differences, to influence public policy across a variety of domains. This research produced 92 case studies outlining the role of civil society in impacting political, social, economic, gender, educational, health-related, and environmental policies in ten Arab countries: Lebanon, Syria, Palestine, Jordan, Egypt, Morocco, Tunisia, Yemen, and the Arab Gulf.

Over two dozen researchers and research groups from the above countries participated in this project, which was conducted over a year and a half. The results were reviewed by an advisory committee for methodology to ensure alignment with the project's goals, and were presented by the researchers in various themed sessions over the course of the two days.

THE CIVIL SOCIETY ACTORS AND POLICY-MAKING PROGRAM

at the Issam Fares Institute for Public Policy and International Affairs at AUB, examines the role that civil society actors play in shaping and making policy. Specifically, the program focuses on the following aspects: how civil society actors organize themselves into advocacy coalitions; how policy networks are formed to influence policy processes and outcomes; and how policy research institutes contribute their research into policy. The program also explores the media's expanding role, which some claim has catalyzed the Uprisings throughout the region.

THE ISSAM FARES INSTITUTE FOR PUBLIC POLICY AND INTERNATIONAL AFFAIRS AT THE AMERICAN UNIVERSITY OF BEIRUT

The Issam Fares Institute for Public Policy and International Affairs at the American University of Beirut (AUB Policy Institute) is an independent, research-based, policy-oriented institute. Inaugurated in 2006, the Institute aims to harness, develop, and initiate policy relevant research in the Arab region. We are committed to expanding and deepening policy-relevant knowledge production in and about the Arab region; and to creating a space for the interdisciplinary exchange of ideas among researchers, civil society and policy-makers.

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 / Fax +961-1-737627

✉ ifi.comms@aub.edu.lb

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