

كسر القوالب Breaking the mold

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

Country: Lebanon

The Lebanese Civil Movement and Abolishing "Rape Law"

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INTRODUCTION AND BACKGROUND

ARTICLE 522 AS A LEGAL VIOLATION FOR WOMEN'S RIGHT IN PROTECTION AGAINST SEXUAL VIOLENCE

Lebanese law is based on a set of discriminatory legislation that deprives women of their rights, most of which are mentioned in the Personal Status Laws to which members of different sects resort to solve the problems they face in their daily lives. Other laws are also available in the Lebanese civil legislation that does not relate to personal status but contribute to consolidating this distinction, most notably the Penal Code and its articles related to rape and honor crimes.

Article 562 of the Lebanese Penal Code stipulates that "the perpetrator of the honor crime shall be exempted from punishment", which means abolishing the penalty of men who commit murders against their wives, sisters and daughters. This article was repealed in 2011 due to a human rights struggle and a long path that women's organizations have fought for over 15 years (Human Rights Watch, 2017). Furthermore, Article 522 of the Penal Code is a major gap in protecting women from sexual violence, as it states that "if a valid contract of marriage is made between the perpetrator of any of the offenses (rape and kidnapping for marriage purpose...) and the victim, the prosecution is suspended. If the judgment was already passed, the implementation of the punishment shall be suspended" (Legal Agenda, 2017). Until 2017, this article expressed a legal failure to protect women from the sexual abuse that they may be exposed to in the public and private spheres. In this context, Mary Rose Zelzal pointed out in her study in 2009 that there are many discriminatory laws in the Sharia courts related to divorce, custody, inheritance, terms of marriage and guardianship, and that this discrimination is

rooted through the penal code through the weakness or absence of punitive provisions in terms of the violations that men commit against women (Human Rights Watch, 2017).

In fact, the law known as the "Rape Law" or the law of marrying a rapist was passed in 1942, i.e., in the last year of the French mandate for Lebanon; since then, it has not undergone any amendment, development or judicial relief, similar to many legal articles that have remained constant although the circumstances for passing have changed (Legal Agenda, 2017).

Moreover, a study conducted by the "Abaad"¹ organization in 2016 showed that only 4% of a sample representing different Lebanese categories in the various governorates knew that implementing the principle of marrying the raped women to the rapist is legally legitimate, while the majority think that it is a custom or a social practice that is not supported by any legal text. The study also indicates that the individuals participating in the study do not accept the legal text.

In fact, many Arab countries such as Egypt, Jordan and Morocco were the first to abolish these laws after the campaigns organized by civil society and its angry popular movements (Hamza, 2017).

¹ Abaad is a feminist non-governmental organization established by activist Ghida Anani in 2011. It started to eliminate all forms of gender-based violence by empowering women, amending public legislation, spreading awareness and engaging men in the journey towards gender justice (Abaad website, 2018).

LEBANESE CIVIL SOCIETY AND ITS ORGANIZATIONS' INVOLVEMENT IN ADVOCATING FOR ABOLISHING ARTICLE 522

Abolishing Article 522 resulted from a long path of human rights advocacy and legal follow-up, which started in the mid-1990s at a weak pace under various names and strategies and did not end with the abolition of the article for reasons that we will explain later.

The two draft laws issued by the National Committee to Combat Violence against Women and the Lebanese Women Democratic Gathering to abolish Article 522 are among the most prominent initiatives that have characterized this case, as these two women's organizations worked on analyzing Personal Status Laws and the Penal Code. Based on the code, they submitted two draft laws and other proposals to amend other articles in the Penal Code and create deterrent measures to protect women from sexual violence and its consequences. Later, after coordination between the two organizations, one draft was approved and sent to the Council of Ministers for discussion before it was referred to the Parliament; nevertheless, the draft remained disregarded by the Council of Ministers and was not included in the agenda of both councils. In 2014, the Lebanese women's movement was able to break through the system of strict legislation and pass Law 293 criminalizing domestic violence. Although the Law did not meet the women's movement's expectations, it led to predictions of change and a new path for many legal reforms (An-Nahar, 2017).

In addition, the "Abaad" organization, which started working to confront violence against women in 2011, noticed the increasing phenomenon of incest (rape of relatives) through field studies and relevant cases. It developed a draft to address these crimes, to which it was added other drafts targeting domestic violence in various forms. However, given the critical social situation - particularly in the Lebanese culture - involved in the draft, the organization launched a campaign targeting rape, in general, to introduce a deeper discussion of incest in later phases.

In terms of the general Arab context accompanying the increasing interest in this issue in Lebanon, it must be noted that the phenomenon of rape has emerged in the past seven years (particularly in 2014 and 2015) and has become the focus of attention in the region and the world (Human Rights Watch, 2015). The region recorded tragic cases of rape and sexual violence, which reached their peak in Iraq, Syria and Libya, especially in Sinjar and Mosul, which helped to change public opinion and reinforce the media focus on rape as a human crime and a gross violation of women's rights, and to create a general conducive atmosphere to have a public opinion against "rape laws" and seek to amend them.

In this context, "Abaad" conducted an extensive study in 2016 to collect information about the prevailing views on Article 522, which exempts a rapist from punishment in the event of his marriage to the raped women. In addition to the lack of knowledge of the majority of the respondents and their rejection of this article, the study showed that the majority refused to link the marriage of the raped women and the rapist based on the principle of "preserving dignity and honor".

In addition, and in conjunction with the issuance of the study of "Abaad", the Member of Parliament of the Lebanese Forces Party, Elie Keyrouz, presented a legal solution to abolish Article 522². He sent his proposal to the Administration and Justice Committee in the Parliament, as this step met with immediate support from many women's organizations.

² In the course of the contradictory opinions of the Lebanese Forces Party and Hezbollah (that supports child marriage), as two rival political parties, the Lebanese Forces Member of Parliament, Elie Keyrouz, revealed his party's position after he submitted a bill to abolish Article 522, which was accompanied by political and civil positions calling for amending the articles of the Penal Code that were harmful to women. The positions of the Lebanese Forces Party at the time were aimed at protecting women.



ADVOCACY MEETINGS, INTENSIFIED MEDIA PROPAGANDA, PROTESTS AND COMMUNICATION WITH DECISION-MAKERS

A month after conducting this study, and with the draft law presented by Keyrouz, "Abaad" launched in partnership with the United Nations Office for Women in Lebanon (UN Women), a national campaign entitled "A White Dress Does Not Cover the Rape". The campaign used the hashtag "#522_ما_تلبسونَا" (which means in English: Do not force Article 522) for the participations and calls on social media as part of its media strategy to raise awareness about the issue³. It had positive interaction and support for the campaign and a call to abolish Article 522 by public opinion and those interested in the case. With the campaign on social media, posters were posted on the roads in all Lebanese governorates, focusing on abolishing Article 522 and urging citizens to mobilize against it and not be silent about its consequences on women⁴.

The campaign was met with positive and strong echoes, and prominent politicians expressed remarkable support for abolishing the article, most notably Prime Minister Saad Hariri, who interacted with the campaign since its first week and used all his social media accounts to support it and declare support for the proposed legal amendments.

"Abaad" took advantage of the political opportunities that were available to it and held one-on-one meetings with many Members of Parliament, particularly the ones of the "Future Movement" headed by Hariri. Through its legal team, it also coordinated individual meetings with all members of the Administration and Justice Committee to influence their views in favor of voting against Article 522 and thus abolishing it. The responses of the Members of Parliament differed, and the legal team was forced to hold more meetings and proposed many legal arguments and social scenarios inspired by real stories told by women who had been raped, and the efforts of the legal team succeeded in making all Members of Parliament vote against the article later in the August 2017 session.

³ According to the reason for adopting this strategy, the media officer in charge of the campaign notes that this stigma symbolizes the collective and total rejection of the article and the immediate call for its abolition.

⁴ "Abaad" relied on the Lebanese filmmaker Daniel Rizkallah to produce a short expressive video showing a binary traumatism / associated with rape and marriage, and the path that the law imposes on the raped women, and their marriage appears as the continuity of raping her.

In parallel with the media campaign and individual meetings with members of the committee, “Abaad”, in cooperation with many women’s organizations, organized demonstrations and protests, most notably in Nejme Square near the Lebanese Parliament⁵.

FACTORS OF ABOLISHING ARTICLE 522

Among the factors that affected the success of the advocacy adopted by “Abaad”, the organization and the observers of the campaign’s progress refer to three:

The financial support of the Japanese government and the Swedish International Development Cooperation Agency helped it enhance its media campaigns, which was reflected in the prominent media coverage it received.

Its partnership with various media outlets played a crucial role in the success of the campaign (An-Nahar, 2017), especially that most Lebanese media outlets, regardless of their political orientations, supported the campaign and covered its activities, while international media outlets paid remarkable attention to the campaign, such as CNN, BBC and TV5 monde. Perhaps the reason is due to the people’s attraction to problematic topics such as rape being a critical topic, especially in Arab countries that have their own cultural and social peculiarities, and due to the evolvement of mass rape in many Arab countries during the “Arab Spring”, as the global media followed this phenomenon and the reactions to it. The focus has been on Lebanon, for it provides a greater margin of freedom for Western media than extremism in other Arab countries.

In addition to support, or at least, political “lack of obstruction”, as the campaign did not hinder any firm and political intention that refuses to abolish the article, in addition to the support provided by Hariri through the means of communication and the media gave a political impetus to the campaign (Legal Agenda, 2017; Khashasho, 2017). The lack of political firmness is because the article is politically and religiously insensitive, unlike many feminist issues, and because it is a flagrant crime and is rejected by public opinion, which allowed and facilitated the process of abolition without causing clashes or controversy.

POLICY OUTCOMES: A READING INTO WHAT CAN AND CANNOT BE CHANGED

At the end of 2016, and after a few days of the large demonstration organized by “Abaad” in the Riad El Solh area in Beirut, the Parliamentary Administration and Justice Committee approved the draft law to abolish Article 522 of the Lebanese Penal Code, as well as to review Articles 505 and 518 of the same law. In fact, Article 505 relates to intercourse with a minor, especially girls aged 15 to 18 years, by her prior consent, while Article 518 deals with the occurrence of a relationship between a young man and a girl with a promise to marry. In both cases, if the girl or her family agreed to her marriage, the man should not be imprisoned.

The Parliament did not vote to abolish Article 522 until the August 2017 session, while consideration of Articles 505 and 518 related to child marriage was suspended, which most religious institutions refuse to consider, while civil society organizations believe that it harms the bodies of girls who have not reached the age of maturity that allows them to make a decision consciously and without pressure (Hamza, 2017). When discussing the articles mentioned above in terms of “coerced sexual intercourse”, Articles 505 and 518 are neutralized as they directly affect the authority of religious

courts, especially the Shiites and Sunnis, and are considered “interference” with the foundations of family formation (Legal Agenda, 2017; Hashasho, 2017).

In fact, the main goal of the “Abaad” campaign, and before that the activity of the Lebanese Women Democratic Gathering and the Lebanese Commission to Combat Violence Against Women, is to abolish Article 522, which is a human rights demand that the campaign and the civil society organizations supporting it have been able to achieve. However, keeping the other articles has led, in one way or another, to make the abolition invalid, which raises fundamental questions about the possibility of change in the current legislative reality, especially when attempts to change affect the religious authority and political parties (Saifuddin, 2019).

It can be said that the “Abaad” played a political role in this issue, benefited from the appropriate circumstances and used a focused media tactic, which created an opportunity to break through the Penal Code and the system of interests that protect it once again, after it was previously violated when the mitigation article related to honor crimes was annulled, which does not relate to some extent, to a critical situation that warrants a political objection.

CONCLUSIONS AND LESSONS FROM CIVIL SOCIETY’S EXPERIENCE IN THE MOVEMENT TO ABOLISH ARTICLE 522

When talking about abolishing Article 522, it must be noted that it is one of the articles that do not touch any of the red lines that usually hinder legislation in Lebanon, such as demographic balance, religious authority, political understandings and Personal Status Laws, which are problems that are often used to justify stopping any attempt to change a code. There is no doubt that the battle to abolish this article required effort, but it was not impossible or exhausting, which is confirmed by the political consensus in the Administration and Justice Committee and the consensus vote to abolish it. In contrast, the matter differs from Articles 505 and 518, which are related to more complicated frameworks related to child marriage, which led to the end of the associations’ efforts with different and discouraging results. We mention, as an example, the “Stop Violence and Exploitation” campaigns focusing on child marriage and the campaigns to combat domestic rape, which to date have not registered any use of a social counselor or a psychiatrist to assess the situation of girls and women, which raises the question about the reasons of organizations for abstaining from working on these points in the context for tackling the issue.



⁵ Among the most prominent protests in Nejme Square were for activists wearing white bandages in the form of wedding dresses, indicating that «the marriage of a raped woman is nothing but an expansion of her tragedy» (An-Nahar, 2017). That protest could bring media’s attention, which covered it widely and went viral on social media.

In addition, the legal team of “Abaad” considers that dealing positively and cooperating with decision-makers and legislators in Lebanon and avoiding absurd disputes with them would achieve and accumulate results. This approach may be correct in certain cases, but it is never suitable in complicated cases, which is confirmed by observers of civil society movements in Lebanon regarding the failure of positive and cooperative attempts to change any law related to complicated issues. Hence, it becomes important to highlight the methods and strategies adopted by the campaign and to shed light on an article that was unknown to the public opinion in a productive and influential manner, in addition to the widespread media interaction that contributed to spreading the movement’s developments and creating a popular and political rally around it. While social support remained almost absent and critical, it did not contribute to creating a public awareness rejecting these practices, nor does it encourage legal solutions in cases of rape.

As for the relationship among civil society organizations, there is no doubt that the movement of “Abaad” and other organizations is a part of a larger movement of civil society organizations in Lebanon and requires greater cooperation that we are currently monitoring (Khashachou, 2017). The most prominent thing that was observed in the movement to abolish Article 522 was the absence of coordination with the “Stop Violence and Exploitation” association, which was working on the issue of child marriage related to the articles accompanying Article 522, which led to the dispersion of civil society efforts as a mass change moving towards a specific goal, albeit not homogeneous. In fact, the lack of coordination in this campaign was evident, and it devoted a new chapter to the predicament of the feminist movement in Lebanon, and once again showed the close connection of many of the right issues with funding operations that often impose the issue on the struggler and enhance competition among women’s movements. Hence, the question about the struggle priorities of women’s organizations becomes legitimate.



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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.

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