



United Nations Economic and Social  
Commission for Western Asia



United Nations Entity for Gender Equality  
and the Empowerment of Women

Distr.  
LIMITED  
E/ESCWA/ECW/2013/Technical Paper.7  
17 December 2013  
ORIGINAL: ENGLISH

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## *POLICY BRIEF*

# *COMBATING DOMESTIC VIOLENCE AGAINST WOMEN AND GIRLS: POLICIES TO EMPOWER WOMEN IN THE ARAB REGION*

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The salient issue of combating domestic violence against women and girls in the Arab region has been receiving increasing attention and momentum by a wide range of different entities in society, including state bodies, civil society organizations and, human rights activists, to name but a few. However, and despite a general dearth of available and reliable data in the region, existing data emanating from national surveys on violence against women that had been conducted in several countries, do reveal the strong prevalence of this problem across the region.

With regard to incidences of domestic violence against women, in Algeria, for example, a survey has concluded that 9000 cases of abuse were reported and, around 50 per cent of those victims were young women between 23-40 years old. In two thirds of these reported cases, the husband was the aggressor, with violence often inflicted in the presence of children. In Jordan, a national survey pointed out that one in three ever-married women aged 15-49 years reported being subjected to physical violence. Prevalence of violence was more than twice as high among divorced women as among currently married female respondents.

With respect to perceptions on violence against women, a survey in Egypt shown that around 30 percent of ever-married women in the sample believe a husband is justified in beating his wife if she goes out without his permission, neglects her children, or refuses to have sexual intercourse with him.

And in Sudan, a survey revealed an overall decrease in support of Female Genital Mutilation (FGM), with around 45 per cent of women aged 15-49 years indicating approval. It was also interesting to observe that the economic status of women can also play an important factor since the poorer the respondent, the more likely their approval of FGM. Yet, one in three of the richest wealth quintile indicated they intended to circumcise their daughters.

This *policy brief* addresses domestic violence in the Arab region, within the context of family, and is based on a recent flagship study, jointly prepared by ESCWA and UN-WOMEN, in addition to support from the Norwegian Embassy in Beirut. It seeks to present, for the first time, evidence-based policy recommendations addressed primarily, to 18 Arab countries in order to strengthen their resolution towards ending violence against women and girls, particularly in the domestic sphere.

Article 1 of the 1993 *UN Declaration on the Elimination of Violence against Women* defines the term ‘violence against women’ as follows: “*Violence against women is “any act of gender-based violence that results in, or is likely to result in physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life”.*”

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### Forms of Domestic Violence

- Early marriage; forced marriage;
- Female genital mutilation (FGM);
- Incest and child sexual abuse; child labour;
- Mental abuse,
- Physical abuse and sexual violence, including wife battery, spousal rape and honour crime;
- Subjection of female family members to sexual harassment, including sexual violence;
- Depriving girl children and female youth of their right to education;
- Denying female family members access to health and reproductive health services;
- Preventing female family members from participating in the economy and in public life;
- Subjecting female family members to forced labour and to degrading;
- Depriving female family members from control over their income (salary or inheritance);
- Physical and mental violence against elderly women.

## Violence against Women and Girls: Impact

Violence, whether committed in public or in private, is reprehensible, and girls and women suffer from it disproportionately. Governments, therefore, have specific human rights obligations under international law to protect girls and women from all forms of discrimination, including gender-based violence. CEDAW and other human rights treaties require State accountability for abuses that occur at the hands of private actors, and require States to show due diligence in responding to and preventing these violations. A State's consistent failure to provide accountability when girls and women are disproportionately affected by violence amounts to unequal and discriminatory treatment, and constitutes a violation of the state's obligation to guarantee girls and women equal protection under the law.<sup>1</sup>

Moreover, Beijing Declaration and Platform for Action, adopted by the Fourth World Conference on Women in 1995, calls on governments to address violence

against women. The Platform for Action states, "Violence against women is an obstacle to the achievement of the objectives of equality, development and peace. Violence against women both violates and impairs or nullifies the enjoyment by women of their human rights and fundamental freedoms. The long-standing failure to protect and promote those rights and freedoms in the case of violence against women is a matter of concern to all States and should be addressed... In all societies, to a greater or lesser degree, women and girls are subjected to physical, sexual and psychological abuse that cuts across lines of income, class and culture. The low social and economic status of women can be both a cause and a consequence of violence against women."<sup>2</sup>

## National Legislation: Existing Challenges

Analysis of existing Arab constitutions and laws reveals that legislation and regulations on VAW are dispersed among various sources, and that articles may be in fact contradictory within the legislations of the same country. The elimination of gender-based inequalities through legislation is contentious, particularly in the case of faith-based personal status laws. This remains the case even though conflicts exist between these laws and other legislation which upholds the rights of women. Moreover, the study shows that the mere existence of legislation to combat violence may not be adequate in itself, since gaps may appear between the law and its application, a matter which is regarded as highly problematic and serious. Indeed, the process of harmonizing national legislation with major international human rights instruments that promote gender equality remains a key challenge throughout the region. This lack of harmonization impacts how states resolve contradictions between sources of legislation.

The existence of contradictions between sources of legislation is common, and efforts to address them tend to be piecemeal. Gaps in the political will to legislate against domestic violence and ensure that appropriate implementation mechanisms are in place undermine emerging good practice in

<sup>1</sup> Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted December 18, 1979, G.A. Res. 34/180, 34 U.N. GAOR Supp. (No. 46) at 193, U.N. Doc. A/34/36, entered into force September 3, 1981.

<sup>2</sup> UNCSW. 2013. *Elimination and Prevention of All Forms of Violence Against Women and Girls. Agreed Conclusions*. CSW, 57<sup>th</sup> Session, 4-15 March 2013, paragraph 12; see also Peace Women. 2013. *Reflecting on CSW 57: The Good & the Bad*. [http://www.peacewomen.org/publications\\_enews\\_issue](http://www.peacewomen.org/publications_enews_issue); 95, art. 112 (<http://www.un.org/womenwatch/daw/beijing/platform/violence.htm>)

the legal sector. Legislating against violence in the domestic sphere requires the political will to identify the problem and seek solutions in line with the government’s obligations in ratified conventions. In turn, this requires mobilizing political constituencies in support of domestic violence legislation.

Amending legislation and regulations to criminalize domestic violence is further complicated by the challenge of achieving consensus on the terms used to classify violence in the domestic sphere, such as for instance, defining spousal rape and the evidence required to prove its occurrence in court. Legal loopholes are also discernible in dealing with male perpetrators of domestic violence. Civil, penal and personal status regulations permit impunity, and legal protocols for the rehabilitation of offenders are absent.

Even where access to the justice system is not subject to insurmountable constraints, an overall culture of shame, the risk of social ostracism, lack of family support, and poverty or lack of income may deter abused wives from instigating a judicial divorce.

The ripple effects of the uprisings in the region have encouraged the prioritization of political violence and downplayed the importance of violence in the domestic sphere. This not only overlooks the links between violence in the public and domestic spheres, but also seems to perpetuate a social culture that essentially regards domestic violence as a private family affair, beyond the reach of the law.

**Ineffective Enforcement of the Rule of Law**

There are also discernible gaps in institutionalizing good governance, enforcing accountability and upholding the rule of law to combat domestic violence. Dealing with female survivors of domestic violence tends to address the symptoms rather than the root cause of violence. Even then, much depends on the awareness of law enforcement staff of the pertinent penal regulations, and if or to what extent they are held accountable for neglecting to apply these regulations.

Law enforcement officials who record domestic violence cases may use imprecise and ambiguous terms, thus undermining the plaintiff’s case before it actually reaches the court. Moreover, judges do not accord priority to domestic violence cases as part of protecting the female plaintiff from further abuse. This behaviour may well discourage female survivors of violence from seeking legal protection. Thus, ineffective law enforcement is linked to an unsystematic approach to building the capacity of law enforcement staff to effectively handle domestic violence.

As far as trainings are concerned, they tend to occur as being project-related rather than an integral element of a strategic approach to build the capacity of law enforcement personnel; a reality that also applies to the judiciary. Moreover, gender sensitization training may address women’s human rights, but does not provide training on a cross-sectoral approach to combating domestic violence, or on how to deal with female survivors of domestic violence.

**Un-coordinated Strategic Objectives and Service Delivery Chains**

In some countries, national strategies may explicitly mention violence against female population groups. However, reference to violence tends to be addressed in the context of dealing with women, children and the disabled as vulnerable groups. Thus, explicit reference to domestic violence appears to be the exception, rather than the rule. Even where national strategies for women’s development are based on a multi-sectoral approach, an institutionalized system is not necessarily in place. Institutionalizing an effective monitoring and evaluation system may be hampered by the absence of a national data base of information on domestic violence incidences and by the lack of benchmarks. Further obstacles include the cost of applying indicators that effectively capture existing

gender gaps; failure to enforce accountability for addressing gaps and shortcomings; and finally, failure to ensure an efficient management unit is in place to follow up in implementation process.

Legal loopholes and the many constraints that prevent or discourage women from accessing protection services operated by government authorities, have particular implications for female survivors of violence. Access to such services may be subject to restrictions, such as the age and the marital status of women. Female adolescents and unmarried women may, therefore, not be eligible for protection in government supported shelters.

Moreover, hotlines, supported by governments, may not operate after working hours or during weekends or holidays. In addition, there are weak referral systems, if they exist at all, that link service chains and protection mechanisms. Furthermore, government protection services may not be directly linked to interventions that may provide some economic assistance to female survivors of violence, another serious repercussion of disconnected service chains. Indeed, where the donor community provides funding for NGO support to female victims/survivors of violence, this may encourage government authorities to be lax in fulfilling their financial responsibilities as duty-bearers. One aspect of protection services that tends to be ignored is the link between reproductive and sexual health education and manifestations of violence in the domestic sphere.

### **Inadequate Budget Allocation**

To date, a minority of countries have adopted institutionalized gender responsive budgeting in their national accounts system. However, no financial resources are allocated specifically to requirements for combating domestic violence. This pertains specifically to funding and capacity-building of service sub-sectors to provide protection and support to female survivors of violence.

In various Arab countries, funding to combat domestic violence may be through discretionary funds. No specific budget line is established, which has implications for continuity and sustainability of activities. In some countries funding may be solicited from the donor community. Indeed, the NGO sector is the recipient of, and dependent on, donor funding for projects focusing on domestic violence. This may encourage a project focus which would undermine a programme approach to tackling domestic violence at the national level. Moreover, NGOs may not have the skills or experience to monitor budget allocations for implementing legislation to contribute to combating domestic violence.

The few initiatives in the region that focus on identifying the cost of the impact of violence have to date not been translated into effective strategies that establish the link between costing and gender responsive budgeting. Little attention is being accorded to the implications of domestic violence for economic growth in terms of lost productivity and reduced economic output, or the increased cost of services used by survivors of violence. Nor is there much reference to the link between national strategies promoting women's participation in the economy and the impact of domestic violence.

### **Civil Society: Between Action and Limitation**

In various countries, NGOs engaged in advocating women's rights have actively focused on the issue of violence. Some of these NGOs operate independently while others co-ordinate their work and services with state institutions and national women machineries in providing services to female survivors of violence. These activities are too often funded by donors and are limited in coverage.

Such NGOs may usually provide legal and counseling services; organize awareness-raising campaigns; operate hotlines and shelters; provide protection for abused children; address the vulnerability of elderly people; and provide health services that include detection of domestic violence. NGOs focusing on eliminating violence against female population groups may form

networks and coalitions in planning and conducting pertinent advocacy campaigns, and may join similar regional networks. However, NGO advocacy and service provision may be all too often hampered by regulatory frameworks that are not usually based on human rights approach.

When help does not come from family members, survivors who are not deterred by the culture of silence and shame may turn to NGOs for support. In fact, NGOs may be the only safe haven in providing some protection from domestic violence, and may even succeed in linking protection services with empowering women by facilitating their access to the justice system. NGOs may face particular challenges where political dynamics curtail the scope and effect of their activities. Joining forces with government authorities in implementing activities may not necessarily achieve the expected results when the official policy overlooks the need for legal reform.

In addition, NGOs may form networks and establish coalitions to advocate and lobby on specific issues, but there is, nevertheless, absence of coordination and fierce competition amongst them, despite working in the same areas. This lack of co-operation is aggravated to some extent as a result of dwindling financial resources. In Arab countries which have experienced uprisings, NGOs which have cooperated with the government authorities during the previous regimes may be perceived as having compromised their integrity. This has led to a questioning of the value of cooperation between the State and civil society.

### **Reporting and Measuring the Impact of Violence**

Lack of reliable national databases that help to account for the prevalence and incidence of violence can seriously impede sound planning for effective interventions to combat violence against women and girls. None of the Arab countries have yet accorded due attention to the costly outcomes of this failure to end violence against women. To date, few Arab countries only have as a matter of fact, institutionalized gender-responsive budgeting (GRB) in their national accounts system, or have earmarked financial resources to implement national strategies for women's empowerment.

### **Good Practice to Eliminate Domestic Violence**

The subject of violence in the domestic sphere is socially and politically sensitive. However, there are some signs of emerging good practices to address it in the region. Examples of emerging good practices include addressing human rights abuse against the girl child through separate strategies and/or programmes that in turn include explicit reference to culturally sensitive issues such as FGM, sexual abuse, or early marriage. In some countries, particular social, health and economic problems of the elderly have been addressed in *Arab Plan of Action on Ageing*. They have also enacted separate legislation targeting the elderly, and in some cases, addressed domestic violence against the elderly.

## **RECOMMENDATIONS**

The following policy recommendations to combat violence against women and girls in the Arab region are based on solid evidence and emanate from a rights-based approach. They also entail the pre-existence of co-ordination among all stakeholders – government institutions, civil society organizations, United Nations and regional organizations, to undertake intervention measures as such:

### **A. State Institutions: Accountability and Due Diligence**

- ✓ Incorporate international legal standards and obligations in national legislations.
- ✓ Institutionalize gender-sensitive planning and budgeting to ensure adequate allocation of resources to services for victims/survivors of domestic violence.

- ✓ Develop a national strategy and action plan, based on a holistic approach, for preventing, combating and ending violence, particularly domestic violence, against girl children, female youth, adult and elderly women.
- ✓ Establish human-rights based standards and procedures for the provision of services to victims/survivors of domestic violence.

#### **B. Civil Society Organizations: Key Partners in Development**

- ✓ Develop NGOs capacities to lobby government authorities and political constituencies (including parliamentary committees and political parties) for legal reform, appropriate protection and other services necessary to effectively combat domestic violence.
- ✓ Develop the capacity to formulate effective advocacy campaigns aimed at mobilizing public opinion and civil society support for combating domestic violence and promoting women's human rights.
- ✓ Provide necessary psycho-social and legal services to women victims/survivors of domestic violence; and ensure coordination with relevant authorities and other service providers during the referral process.
- ✓ Support women's safe, sustainable reintegration into the community and into society.