

Seeking Justice for Physical and Sexual Violence against Women in Lebanese Society

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Violence against women has no definition in Lebanese law. Domestic violence, defined as violence happening within a household and between members of a family, is ruled by the general articles of the Lebanese Penal Code. The Lebanese Penal Code has only a very few articles punishing acts of violence that cause bodily harm or injury (Articles 554-559 - Legislative Decree 340/NI dated March 1, 1943). These articles address physical violence that can occur between any individuals, strangers or relatives, at any place, whether in the street, in a bar or anywhere else. Penalty categories for injuries range from six months to ten years in jail if the injury leads to disfigurement or mutilation. In the first category, the penalties are not applicable if the charges are dropped by the victim. Indeed, the absence of a special law prohibiting domestic violence in Lebanon makes this crime almost beyond punishment.

Domestic violence is a crime with its own specific characteristics. This crime happens in special situations that make seeking justice very difficult for the female victim.

Some lawyers consider that the articles present in the Penal Code (Articles 554-559) are sufficient to punish domestic violence. In fact, not only are the articles not enough, but the entire Lebanese judicial system is not

prepared – and is even hostile at times – to deliver sentences in cases of domestic abuse.

While causing injury or physical abuse against strangers or non-members of the family can be easily proven, especially if it happens in public, crimes perpetuated at home are more difficult to deal with. They require special investigations to be conducted by very well trained police officers with the help of specialists (social workers) who will take the necessary steps to protect the victim and her children from further abuse, including the provision of temporary shelter when needed. Also, the presence of medical personnel and psychologists is essential for the support and the evaluation of the impact of moral abuse. Unfortunately, none of this exists in Lebanese society when dealing with domestic violence.

Lebanese society is a very conservative society that still condones honor crimes and shows a very tolerant attitude towards the killing of female relatives. Thirty-six honor crimes were reported in Lebanon between 1995 and 1998.¹ As this number includes only crimes reported to the police, researchers believe that the actual number of incidents is much higher. This kind of crime is not usually reported, or is often documented as accidental death or suicide.

While Article 549 of the Lebanese penal code establishes the death penalty as the punishment for intentional homicide against the ascendants and descendants of the offender, the same law recognizes mitigating circumstances for a male member of a family 'who catches his wife or one of his [female] ascendants or descendants or sister with another in an unlawful bed and he who kills or wounds one or both of them.' (Article 562)

Rape and the Discriminatory Legislation

Rapists are not liable for their act if they are already married to the victim or if they get married to her after the rape takes place. Thus, the legislation which aims to protect family values actually defends sexual violence and legitimizes it.

Article 522 of the Lebanese Penal Code gives the rapist impunity if a legal marriage takes place after the crime is committed. If divorce occurs within three to five years (depending on the act committed against the victim), the prosecution will be resumed against the offender.

A very tragic story happened in Tripoli, Lebanon, a few years ago, when a girl was kidnapped and raped. The prosecutor refused to order the arrest of the criminal because he heard that the rapist got married to the girl.

Some people from the region believed that if the girl did not marry her rapist she should not go back home because having lost her virginity and staying a single woman in her city would put her in great danger of being killed for dishonoring the community.²

In fact, the girl remained unmarried and was being held hostage. Her mother, a very courageous lady, asked for help from women lawyers and a women's rights NGO. The lawyers and the mother used to gather at the door of the prosecutor and stay all day trying to convince him to act in order to bring the kidnapped girl back home and to bring the rapist to justice. The mother stood up for her rights despite the pressure of a prominent MP who was defending the rapist.

All those demonstrations attracted the media who came to cover not only the kidnapping but this new phenomenon in the most conservative region of Lebanon, of women asking for their rights with a spectacular movement of solidarity.³

The outcome of this case was the arrest of the rapist on charges of kidnap, rape, and forced marriage.

Lebanon has many discriminatory laws that should be addressed, not to mention the absence of many other important laws that should be established to ensure bet-

ter protection for women at home and in the work place. During my work as a lawyer I was asked to handle many cases of sexual harassment, but I could not file a complaint under criminal law. The cases were qualified as subject to labor law, and the victim was to seek compensation for being dismissed from her job because she resisted sexual advances, but the offender was never punished for his criminal act.

The Situation of Foreign Domestic Workers

In this context, it is very relevant to mention the abuse of foreign domestic workers in Lebanese society.

A housemaid is expected to work more than 12 hours a day. She should start working when the first member of the family wakes up and she should be the last one to go to bed. Many maids start their day at 6 a.m. to prepare the children for and take them to school, spend the day cooking and cleaning, and then stay up late to serve the husband when he comes back from work. She has no days off, and she cannot leave the house unless accompanied by a member of the family. According to societal standards, this would be an 'acceptable' situation for a housemaid if she were not subject to physical forms of abuse.

Many forms of physical abuse against housemaids have been reported to activists and human rights NGOs. Also many mysterious deaths of domestic migrant workers have occurred, and the Lebanese judiciary police conducted no serious investigations.

According to statistics provided by Katunayake International Airport, Sri Lanka's main international airport and the Foreign Employment Bureau in Sri Lanka, 215 migrant workers' dead bodies, among them 107 women, were returned in 2002 from different Middle Eastern countries including Lebanon. From January to mid-October 2003, 203 bodies arrived, 131 of them female. Most of the cases were reported by the authorities of these Middle Eastern countries as death by natural causes.

Kandiah Nandane, 24, from Wattala, who worked in Lebanon for ten months in 2002 as a housemaid, died in unknown circumstances. When her body was returned to Sri Lanka, her family was told she had committed suicide by jumping from the fifth floor of an apartment block.⁴

The report of the Committee on the Elimination of Racial Discrimination 2004⁵ expressed concern regarding the situation of migrant workers. The recommendations issued were as follows:

83. While welcoming the measures taken to improve the protection of migrant workers, the Committee remains concerned at the situation of migrant workers in practice,

in particular domestic workers, who do not benefit fully from the protection of the labor code. Furthermore, the Committee regrets that insufficient information was provided as to how the bill for the establishment of a new labor code would affect migrant workers and whether it would provide any specific protection against discrimination on the grounds specified in the Convention. The Committee urges the State party to take all necessary measures to extend full protection to all migrant workers, in particular domestic workers. In addition, the State party should provide information in its next periodic report on any bilateral agreements with the countries of origin of a large number of migrant workers. In addition, the Committee recommends that the State party ratify the International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families of 1990.

The second most serious practice against a domestic worker's rights is depriving her of her passport. The passport should only be held by its owner. A passport is also considered the property of the government that issued it. So in the Sri Lankan case it is the property of the Sri Lankan government and no one else except the Sri Lankan worker is allowed to keep it. Upon her arrival at the airport, the migrant domestic worker is forced to hand over her passport to the authorities; the General Security takes the passport and gives it either to the employer or to the recruiting agency who should be present at the airport to pick up the worker. The employer will keep the passport with him/her until the end of the contract or until the domestic migrant worker needs to travel back to her country. Of course, the consent of the employer is necessary for such travel. Holding the passport is a very common practice and the public is unaware of the ramifications of this action for the migrant worker.

In the concluding observation of the Human Rights Committee of the International Covenant on Civil and Political Rights in 1997⁶ about Lebanon, the United Nations condemned this practice:

22. The Committee has noted with concern the difficulties faced by many foreign workers in Lebanon whose passports were confiscated by their employers. This practice, which the Government has conceded must be addressed more satisfactorily, is not compatible with Article 12 (freedom of movement) of the Covenant. The Committee recommends that the State party take effective measures to protect the rights of these foreign workers by preventing such confiscation and by providing accessible and effective means for the recovery of passports.⁷

Two Malgashi workers decided to sue their employer for holding their passports. The confiscation of their passports made them unable to leave the country without being

caught and held in prison. Unfortunately they lost the case. The investigating judge in Lebanon said in her judgment: "It is natural that the employer confiscates the maid's passport and keeps it with him in the event that she runs away to work in another place without compensating him."⁸

The confiscation of a passport results in the domestic worker who no longer works for her sponsor, being trapped in Lebanon for an indefinite period with an illegal status. Recently Lebanese civil courts began issuing judgments declaring the confiscation of passports by employers illegal, but there is no law yet that forbids this practice and the confiscation of the worker's passport is still practiced very widely.

Conclusion

Even though Lebanon has ratified the Convention on the Elimination of all Forms of Discrimination Against Women (known as CEDAW), it still has more than 30 provisions in its legislation that are discriminatory against women.⁹

CEDAW's texts are explicit: They ask the States parties to condemn discrimination against women in all its forms and to adopt a policy to eliminate discrimination against women through appropriate legislation and sanctions that prohibit all discrimination against women (Article 2, CEDAW).

By not explicitly prohibiting violence against women, Lebanese legislation is facilitating the perpetuation of crimes against women. By keeping laws such as those dealing with 'honor crimes,' the state and the judicial system become accomplices in the murder of women.

Endnotes

1. Moghaizel, Fady and Abdel Sater, Mirella '*Honor crimes, jurisprudential study*' Moghaizel Foundation, Beirut, 1999.
2. Suline is a Lebanese University medical student who was abducted on 9 May 1998 on her way to class at the Islamic Hospital in Tripoli, in northern Lebanon.
3. Suline was forced to accept marriage. Ziad Zuhurman, the rapist, asked the local MP of northern Lebanon to oversee the marriage. However, Suline's mother reported her daughter's abduction and rape to the Lebanese Council to Resist Violence Against Women. The actions of the Council reverted Suline's situation to her favor. Besides providing her with free legal representation, the Council acted in the following ways to secure the result achieved:
 - It widely publicized the issue.
 - It appealed to the President of Lebanon, the House Speaker, the Prime Minister and also the Justice Minister for urgent action to be taken.
 - It appealed to human rights associations and held meetings on the issue.
 - It held a public debate at the Lebanese Law faculty in Beirut,

calling for a cancellation of Article 522 of the penal code that legalizes a marriage between a victim and a man who has committed crimes of seduction, rape, forced prostitution and/or kidnapping if both parties consent to the marriage. By marrying a victim, a perpetrator is not punishable for his acts.

- It publicly protested against, and condemned, the involvement and support given by Akkar MP Wajih Baarini and his brother.

- It publicly demonstrated, outside the Tripoli Serail, where Ziad Zuhurman was being questioned and temporarily detained.

4. WorldSocialistWebsite <http://www.wsws.org/articles/2004/jan2004/srme-j13.shtml>

5. Sixty-fourth session, 23 February-12 March 2004, CERD/C/64/CO/3.

6. CCPR/C/79/Add.78. Concluding Observations/Comments.

7. Article 12 of the International Covenant on Civil and Political Rights:

1. Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.

2. Everyone shall be free to leave any country, including his own.

3. The above-mentioned rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order, public health or morals, or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant.

4. No one shall be arbitrarily deprived of the right to enter his own country.

8. Judgment Number 228 date 2 September 2001 - Beirut investigating judge.

9. National law reform report of The National Committee to Eliminate all Forms of Discrimination Against Women, Beirut, Lebanon.

Brief Summary on the Situation of Migrant Women Workers in Lebanon

This section will rely primarily on the study by Michael Young published by the Lebanese NGO Forum entitled "Migrant Workers in Lebanon."

I. Background

The arrival of migrant laborers in Lebanon reflects not only domestic needs in the countries of origin but also regional labor mobility. Specific regional events — the drop of oil prices, the Gulf war and the collapse of the Soviet Union — have led to changes in migration trends and resulted in the 'expansion of replacement migration' and the 'feminization' of migration.

Both trends have been evident in Lebanon. For several years women from Eastern Europe and the former Soviet Union have been working in bars, as dancers, waitresses, and prostitutes. However, it is the presence of a growing number of Asian women, mostly from non-Arab Asian countries, that has been particularly evident. A majority of non-Arab migrant laborers are women, a trend that is bound to increase as the Lebanese authority imposes further restrictions on the arrival of non-Arab Afro-Asian males. 'Replacement migration' is a relatively recent phenomenon but it has reached large proportions, given — in the case of women migrants — the increasing hiring of Afro-Asian women workers as low-priced domestics, roles previously played by Syrian and Egyptian women.

Who are they?

Prior to 1973, most female workers were

Egyptians and Syrians, and worked in households. As of 1973, Filipinos started to arrive to Lebanon, followed by Sri Lankans in 1975. In 1990 women from African countries, mainly Ethiopia and Madagascar, arrived. Today, the largest contingents of non-Arab Afro-Asian women migrants in Lebanon are mainly from Sri Lanka, the Philippines, India, Madagascar, Ethiopia and west African countries. They provide domestic services, usually in households, but also in restaurants and other businesses. Their majority of domestic workers are women.

How many are they?

The actual number of women migrants is difficult to determine for several reasons, ranging from a lack of reliable figures, to the contradiction in numbers that differ from one source to another, to the illegal presence of foreign female workers. It is roughly estimated that 85 percent of the total number of non-Arab African Asian migrant workers in Lebanon — out of an estimated 200,000-230,000 workers — are female.

II. Working Conditions

Conditions of workers vary depending on category of employment. Migrant workers are not governed by Lebanese labor law. Their status is governed by a contract between the worker and the employer. The fact that migrant workers are not governed by labor law means that they are denied a right to earn Lebanon's minimal salary, they do not have a maximal number of working hours, they have no guaran-

teed time off or vacation, they are denied accident and end-of-work compensation, and they are barred from joining labor unions.

Women migrants often face difficult conditions, including:

- * Long hours, for low salaries, in inferior conditions to most Lebanese

- * No social coverage, though some measures have been taken to provide insurance to some categories of migrants

- * Being locked indoors by their employers;
- * Difficulty in complaining to Lebanese authorities

- * Illicit measures affecting salaries such as non-payment

- * Confiscation of passports or other identity documents (prohibited by Lebanese law and by the International Convention of the Protection of the Rights of All Migrant Workers and their Families) that leads to limitations on their freedom of movement

- * Physical and sexual abuse, which may lead to suicide. Rape is frequent in households. Some lawyers have attempted to take those responsible to court. While there have been rare successes, most of the time the guilty go unpunished. Abused women migrants are too often reluctant to testify against their tormentors. Their primary motivation appears to be fear, whether of retribution or eventual loss of employment and eventually, expulsion.

<<http://www.lnf.org.lb/windex/violation.html>>