

The Untold Truth about Crimes Committed by Women

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A truck carrying prisoners pulled into the courtyard of the Judicial Palace and three women stepped out. My friend and I looked at them and immediately concluded, judging from their appearance, that one was Lebanese, one Romanian and the other Sri Lankan. We continued our guessing game and assumed that the Lebanese woman must have been arrested for drugs, the Romanian for prostitution, and the Sri Lankan for theft. All of a sudden, we realized that we were biased in our assumptions, given that we had drawn our conclusions from first impressions. We became eager to see if we could verify our guesses, and we followed the suspects into the Judicial Palace only to learn that all three women were in fact arrested for murder. Leila is a Lebanese woman accused of conspiring with her lover to murder her husband; Christiane, who we initially thought was Romanian, was in fact French, and was accused of aborting while in her fourth month; and Lakshimi was accused of stabbing the owner of the restaurant where she worked.

We immediately fell into the trap of stereotyping these women despite believing that we were above such biases. This led us to think about the meanings and implications of justice and equality before the law. We asked ourselves: How are they going to appear before one court to be

judged under one law? How would each of them plan their defense and would they all be given a fair trial? In Lebanon, the issue of equality within and before the law usually pertains to equality between the sexes. Lebanese laws contain various kinds and levels of gender-based discrimination, especially regarding personal status laws and the Penal Code, which reinforces and consolidates discriminatory tribal values and inequalities.

The issue of discrimination against women takes on various dimensions especially when it intersects with social, racial or cultural considerations. This article will focus on one aspect of discrimination against women who are accused of committing criminal acts, tackling the issue of the hidden and the manifest in the relationship between the law and social values.

The Hidden and the Manifest about Crimes Committed by Women

Lebanese society is considered traditional and patriarchal in both its structure and values. Since women are viewed as the 'pillars' of the home and are relegated to the private sphere of the household – their so-called natural place – they are not seen as a threat to the social order, and violence, as a trait, is not commonly attributed to

them. They are seen to symbolize and preserve society's identity, heritage, and honor by virtue of their gender. Therefore, by conforming to their traditional roles and allowing men to maintain their dominance, ultimately, the status of women has been reduced to objects in need of protection. These roles, however, are becoming increasingly unstable as women gain greater equality with men and ask to be entitled to equal protection under the law. Nevertheless, the laws regarding women are still vacillating and this could be due to society's prevailing patriarchal values (which are starting to disintegrate due to the forces of modernity). This volatility in roles destabilized the value system and has resulted in a distinctly Lebanese bargain: reconciling the old with the new in a perfect synthesis. If a patriarchal society is to abide by new laws, it must doubly preserve the status quo while safeguarding its traditional positions and values. Of course, this compromise is reached only at the expense of women's rights, and becomes dramatically obvious concerning punitive issues such as capital punishment.

Capital Punishment According to Tribal Law and the Penal Code

Regrettably, capital punishment is still implemented in Lebanon and murder is a crime punishable by death. Individuals and human rights activists are now demanding the abolition of the death penalty. According to the national register of capital punishment verdicts, around 50 have been enforced since 1947,¹ without a single woman being among those executed. When it concerns women, only particular crimes warrant the death penalty, and the decision must be taken by a special authority. However, some women are killed by their own families for tarnishing the family's honor. The law is lenient with the murderers and condones such crimes on the grounds of extenuating circumstances. If we compare the data pertaining to honor killings and those pertaining to the death penalty as authorized by the judiciary, the results are startling. In addition to the six executions carried out in Lebanon between 1995 and 1998, 36 recorded honor crimes² were committed against women in Lebanon during the same period. This means that the executions of women in the name of honor – implemented outside the direct rule of law – exceed legal executions by six times.

It is important to note that the number of crimes of which women are the victims is unclear and often inaccurate. The percentage of women reported to have died suddenly or to have committed suicide by swallowing poison, for instance, is unjustifiably high in certain areas. This indicates that these women could have been murdered. This conspiracy of silence between the government and tribal families is the result of traditional values and attitudes that should no longer be legitimate or acceptable in today's society.

Social values and the roles they reinforce change over time, but the law does not. This adds to the dangerous discrepancy that exists between the concept of "criminal women" in reality and before the law, and the dangerous imbalance in values that the law protects. It also questions the validity and reliability of the statistics and figures available.

The Female Criminal before the Law

It is known that what defines criminal³ acts is bound by time and space. Moreover, such acts harm strong feelings of social consciousness and basic values, pushing societies to take deterrent and preventive measures against them, and to label them "criminal" acts before the law, all the while designating appropriate penal measures. Here lies the importance of the law in assessing the legitimacy of crimes.

The same act considered a crime in a certain era and place might be regarded as an individual's legitimate right under different circumstances. For example, abortion in Lebanon is a crime punishable by law, whereas in France it is considered a woman's full right to choose to terminate a pregnancy. Ironically, it is well-known that abortions take place secretly and abundantly in Lebanon.

An act can constitute a crime in a certain country, but be considered a breach of civil obligation elsewhere. For instance, adultery is a crime punishable by the Lebanese Penal Code, whereas in France and other countries, since the mid-70s, it constitutes a breach of faithfulness in marriage and therefore has civil repercussions. Adultery in Lebanon occurs across social classes. It is mostly practiced underground and remains secret in most cases. If such cases do surface, they go unreported, with lawsuits rarely being filed.

Passed more than 65 years ago, the Lebanese penal code reflects the prevailing values of that time. Although in principle it strived to treat criminals equally irrespective of their gender, it remained discriminatory particularly in issues such as honor crimes, adultery and abortion laws. Under these laws, women are no longer considered human beings or citizens, and their status is reduced to that of sexual objects 'owned' by men to symbolize their honor. Discrimination is also evident in criminal acts that are not punishable by the law, such as cases of women who are raped by their husbands.

However, the last 20 years have witnessed major changes in the prevailing social values and behaviors, such as those regarding gender relations, especially the participation of women in public life. Hence, the delegation of women to the private sphere, namely the household, is no longer viable. Yet, 65 years after the endorsement of the penal code and despite vast societal transformations,

the law remains unchanged. This status quo is depriving women of their rights and contributing to persistent inequality between the sexes.

How adultery is viewed and practiced is an example of the discrepancies that exist between the law and social norms. Adultery is punishable by law and condemned by all conservative Arab communities. However, there are some ironic stories of people in informal social gatherings talking about a certain official's wife using her beauty and seductiveness to further her husband's political and economic ambitions. Despite this, those same people respect the woman and her husband, seek their friendship, and take pride in it. Adultery is widespread in many social circles and is often discussed openly. Moreover, extramarital affairs are sometimes considered a source of pride and proof of a husband's virility. If violating one's marital vows by being unfaithful does not harm society's values, and is seen as acceptable, why is it still considered a crime? Similarly, if adultery is considered a crime, why is it not reported and prosecuted?

In the case of honor crimes, most murders are not committed to defend one's honor, but to avoid scandal. For instance, there are cases of incest that result in the murder of the female victim for fear of exposure. Yet these are either classified as honor crimes, or the perpetrators report that the victim died due to a disease.

The Reality of Criminal Women in Lebanon

Lebanon has never known women who have committed brutal pathological crimes such as those committed by Countess Erzsébet Bathory, who was brought to trial in 1614 on charges of killing hundreds of young women and bathing in their blood in order to preserve her youth. In other words, criminality among women is not a common or prevalent phenomenon. And when women do commit murder for example, they are often portrayed as victims revolting against oppression such as a subjugated wife who poisons her husband to free herself of his tyranny, or an enslaved maid who revolts against her oppressive employer by murdering him, and so on.⁴

The Internal Security Forces' Directorate-General has been collecting crime statistics in Lebanon for a number of years. A sample of the crimes committed between 1993 and 2002,⁵ reveals the following: 191 murders were committed by women during this period, as compared to 1,138 murders committed by men (i.e. 20% of the total number of such crimes).⁶ It is difficult to clearly determine whether the percentage of women criminals has actually increased or decreased, but it is quite obvious that the percentage of murders committed by men has decreased. These statistics, however, do not reflect reality since there are many crimes that go unreported.

Fear of revenge, shame or scandal often explains such silence.

Since the end of the civil war, it appears as though the Lebanese have become more tolerant towards violence, and Lebanese society often tolerates acts that are considered criminal under Lebanese law. Hence, many crimes go unreported. Therefore, the assumption that the murders committed by women constitute 20% of total murders is probably an exaggeration.

The difference in the numbers of reported and unreported crimes is remarkable and is considered by some to be a major weakness,⁷ and in reality, there is no clear way of determining the number of unreported crimes. When tolerance to crime is high, the number of reported crimes decreases and unreported crimes increase. This is why the available statistics, whether conducted by the public or private sector, are not reliable.

The Right to a Defense and a Fair Trial

According to Lebanese law, the right to a defense is a basic right and it guarantees a fair trial. In its preamble, the Lebanese Constitution pledged to abide by the Universal Declaration of Human Rights as well as other international treaties, and Lebanon is the only Arab country to have openly expressed its commitment to the declaration (in its Constitution). This grants the declaration a privileged status within the Lebanese legislative system.⁸

Article 7 of the Universal Declaration of Human Rights stipulates that "all are equal before the law and are entitled, without any discrimination, to equal protection of the law"; article 8 of the declaration stipulates that "everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him [her] by the constitution or by law."

Article 14 of the International Covenant on Civil and Political Rights sets the criteria for a fair trial. These include: "To be presumed innocent until proven guilty according to law; to be informed promptly and in detail, in a language which he [sic] (the defendant) understands, of the nature and cause of the charge against him [sic]; to have adequate time and facilities for the preparation of his [sic] defense and to communicate with counsel of his [sic] own choosing; to examine, or have examined, the witnesses against him [sic] and to obtain the attendance and examination of witnesses on his [sic] behalf under the same conditions as witnesses against him [sic]; to have the free assistance of an interpreter; and not to be compelled to testify against himself [sic] or to confess guilt."⁹

The Lebanese penal procedure code guarantees the right to a defense and determines the conditions for a fair trial.

These rights were solidified further after the amendments introduced in 2001. The proper implementation of the procedure code guarantees a correct implementation of the penal code, and together they contribute to securing the appropriate application of penal justice.

I attended some of the court sessions for Leila, Christiane and Lakshimi's ongoing trials¹⁰ to try and understand the factors that may influence the right to a defense during a trial. What caught my attention about Leila's trial was that she was given the right of defense from the moment she entered the courtroom. She took the stand fully confident of her innocence, successfully conveying to all those attending that she was in the wrong place. She is a distinctly privileged suspect, mainly because she is a rich woman who enjoys her family's support, and has access to specialized attorneys. She won the sympathy of the court. During her questioning, Leila remarkably succeeded in proving her innocence; she was fully informed about the case and obviously prepared herself for the session with the help of her attorneys. Her communication was calm, making it easy for the judges, attorneys and suspects to efficiently discuss her file in the courtroom.

Despite being a woman, Leila was not discriminated against because the law does not distinguish between men and women in murder cases, nor between their rights to a defense. It was clear that the determining factor behind Leila's success was her financial status, especially in helping her benefit from legal expertise.

As for Christiane, her problem was of a different kind: she is a French student who had come to Lebanon six months before her arrest to conduct field research within the framework of her PhD. She met a German man carrying out a study in the same field, and they decided to live together. Soon after she became pregnant, yet she realized she could not cope with raising a child while still studying, and decided to terminate her pregnancy. Unfortunately, subsequent health complications led her and the doctor who performed the abortion into the hands of the police.

Is abortion a crime or a right? Christiane entered the courtroom and told the tribunal that she did not know abortion was prohibited in Lebanon, and that she does not consider it a crime. In her country, a woman's right to abort was made legal in the mid-70s with the Simone Weil Law. She argued that the right to abort was sanctioned in France after abortion became widespread, prodding the French judiciary to legalize it in accordance with certain medical practices that respect women's rights as well as public safety. A long conversation took place between her and the judge, in the presence of her attorney and an interpreter. Despite the fact that she had only been in Lebanon for six

months, and bearing in mind that she had been associating with friends from university who knew nothing about the penal code, she was unable to convince them of her ignorance of the law. However, Christiane's argument that she did not consider abortion a crime was an important move in her defense. She was able to prove that she was not openly challenging Lebanese law and never had the intention to violate it, since she believed she was exercising her right (as recognized in her country).

Christiane participated in her own defense and managed to do so in French. Luckily, both the judge and the attorney were fluent in French, which complemented the interpreter's job. Consequently, the fact that everyone knew the language enabled her to communicate her defense. Christiane's problem in defending herself, however, did not lie in the language, but rather in the Lebanese law which considers an act, legal in the country where she has lived all her life, a crime. Christiane knew that abortions were performed in various private clinics in Lebanon as well as 'underground' in old-fashioned, unhygienic conditions. Is it fair to prosecute Christiane for a crime that constitutes a right in her own country?

Lakshimi's case was approached from a cultural, social and economic perspective, which made gender-based discrimination against her possible. Lakshimi is a young Sri Lankan woman in her early twenties who came to work in Lebanon four years ago through a recruitment agency in Delhi. She spent two years working for a family who treated her like a slave. She escaped leaving her passport and money behind. Her employers confiscated her passport, yet they still owed her 6 months worth of salary. After she escaped, she worked as an assistant chef at a popular Beirut restaurant. The restaurant owner wanted her to offer him and his clients her sexual services, but she refused. One day, after all the clients had left, and as she was getting ready to go home, the owner assaulted her, and tried to rape her. She stabbed him with a knife and escaped.

The restaurant owner filed a lawsuit against Lakshimi on charges of attempted murder and theft. She was arrested and imprisoned. After a preliminary interrogation, the minutes of the questioning were drafted and she signed them. She was never told what she had signed, and she never asked.

She entered the courtroom submissive and defeated, and took the stand as if she had already surrendered to the verdict. The court clerk called her name, but she did not move. The policeman who stood next to her scolded her and shouted her name. One of the judges asked her if she had stabbed the plaintiff with a knife to which she replied, "Yes." He asked her why she did it, yet her reply was in an

Indian dialect, and the court understood nothing except the word "Mister." The interpreter continued, "She stabbed him because he tried to rape her." When asked if there were any eyewitnesses, she told them that Sobhi, an Egyptian worker at the restaurant, had witnessed the incident.

Lakshimi did not know, however, that Sobhi had been living and working illegally in Lebanon for over than 3 years, and that the restaurant owner had promised to work on his residency with the help of a friend on condition that he would not appear before the court. Both men benefited from the pact; it was a good bargain for Sobhi because it kept him out of jail and exempted him from paying a fine, and it protected the restaurant owner of the only eyewitness who could testify against him.

The judge asked Lakshimi about the theft accusation that had been lodged against her by her first employer. She remained silent until the end of the court session. The attorney designated by the court to defend her was surprised and could not understand the suspect's silence, which could have been understood as a confession and thus strengthen the prosecutor's position. The attorney, however, was not well-informed about the case and only had time to examine Lakshimi's file immediately prior to the trial. Moreover, he was unable to discuss the details of the case with his client because there were no interpreters available. The attorney later discovered that Lakshimi's former employers falsely filed a lawsuit against her to rid themselves of any obligation to pay her dues. The attorney later informed me that he had visited Lakshimi's former employer telling her how dangerous her false accusations were and that they could adversely affect the course of the present trial. In a shocking display of cruelty, Lakshimi's former employer refused to drop the charges.

Surely, silence is the defendant's rights and no accused should be compelled to confess to a crime he [sic] is charged with. A defendant has the right to remain silent, although it is a negative form of communication. However, remaining silent because one is in shock undermines one's right to a defense, suggesting despair and failure to communicate. Yet, Lakshimi's silence was due to her powerlessness in defending herself in the face of daunting circumstances, and only served to consolidate the charge against her. It also made things easier for those in the judicial system who failed to break the barriers of language and ignorance in order to arrive at truth and justice. It is possible they may have also done so in subsequent court sessions.

There is an incommensurable gap between the law and reality; a gap no smaller than the gap between espoused and practiced values, and the gap between the hidden

and the manifest. Bridging this gap requires acknowledging that it exists, and then working to reverse it by acknowledging the injustices taking place at the legal level, as well as at the level of everyday life. The complicity in covering up crime is a result of an unwritten social agreement not to speak out against injustice and not to criticize traditions. It is an expression of the law's failure to expose the social hypocrisy and deceit behind professed values, even when such values are clearly criminal.

Translated by Nadine El-Khoury

Endnotes

1. An-Nashef A. and al-Hindi, K. (1998). *The Death Penalty in Lebanon*. Tripoli: The Modern Book Establishment.
2. Rabah, G. (2003, 2004 and 2005). *The Death Penalty: A Solution or a Problem*. The Nawfal Association: Beirut and the General Amnesty annual reports.
3. Article 562 of the Penal Code, amended on February 20, 1999, stipulates that "he who catches his wife, or one of his ascendants, descendants or sisters committing adultery (flagrante delicto) or illegitimate sexual acts with another and kills or injures one or both of them unintentionally, benefits from extenuate reason."
4. Durkheim, E. (1897). *Le suicide: Etude de Sociologie*. Paris.
5. Durkheim, E. (1900). *Deux Lois de l'Evolution Penales*. L'annee Sociologique.
6. Vital-Durand, M. *Crimes de Femmes: 25 Histoires Variees*. edit. Paris: Flammarion.
7. Khoury, Y. (2005). La femme Meurtriere, L'apres Coup de la Seduction. Academic Studies Magazine issued by the Lebanese University's Faculty of Humanities - issue n. 2.
8. Statistics conducted by the Canadian Association of Elizabeth Fry Societies show that the number of women prisoners increased by 200% during the past 15 years. They also show that 82% of women prisoners are victims of physical aggression, rape and incest. Go to http://www.elizabethfry.ca/caefs_f.htm
9. Al-Awji, M. (1987). *The Crime and the Criminal*. *Studies in Criminology*, Vol. 1, 195.
10. Article (b) of the Lebanese Constitution's preamble stipulates that: "Lebanon is Arab in its identity and in its association. It is a founding and active member of the League of Arab States and abides by its pacts and covenants. Lebanon is also a founding and active member of the United Nations Organization and abides by its covenants and by the Universal Declaration of Human Rights. The Government shall embody these principles in all fields and areas without exception."
11. Article 6 of the European Convention on Human Rights endorsed of November 4, 1950 highlighted the right to a fair trial, especially the right to a defense. A declaration adopted by the UN in 1985 about the independence of judicial power developed the criteria of equality before tribunals and guarantees to the rights to a defense during all phases of the trial. Regional conferences emphasized these principles, especially the First Arab Conference on Justice held in Beirut in 1999 and the Second Arab Justice Conference held in Cairo in 2003.
12. The names and some of the facts have been modified.