

REGIONAL CAMPAIGN ZERO TOLERANCE FOR VIOLENCE AGAINST WOMEN AND GIRLS

BRIEF #2

REGIONAL EXPERTS ROUNDTABLE

COMBATING DISCRIMINATION AGAINST WOMEN IN LEGISLATION

17th June 2019, Beirut

Violence against women and girls (VAWG) is a global problem. With one out of three women having been abused or subjected to gender-based violence in their lives, it is the most pressing issue throughout the world.

Women in the countries of the Southern Mediterranean are particularly affected because they suffer not only from a broad social tolerance towards VAWG but also of discriminative laws and poor prevention and protection mechanisms. Furthermore, due to increasing political instability, armed conflicts, spreading of violent extremism and a massive displacement crisis in the region, they are more exposed to sexual violence, assault, torture and slavery.

Over recent years several countries of the region have passed laws to curb domestic violence. Countries have also adopted National Action Plans (NAP) for the implementation of the UN Security Council Resolution 1325 on Women, Peace and Security. However, entrenched discrimination against women in law remains, predominantly in Personal Status Laws and Penal Codes. Besides, in countries where there are laws to curb violence, these are not being properly implemented or are not comprehensive.

Abolishing discriminatory laws, adopting comprehensive gender equality laws (including criminalization of all forms of VAWG and provision of protection and prevention measures) and dedicating means for their implementation is a fundamental cornerstone to protect women's right to live a life out of fear. This priority was discussed at a Regional Experts Roundtable on 17 June 2019 in Beirut. The roundtable took place in the frame of the Regional Campaign on Zero Tolerance for Violence against Women and Girls, launched by EuroMed Feminist Initiative and a consortium of women's rights organizations from Algeria, Egypt, Jordan, Lebanon, Morocco, Palestine and Tunisia and funded by the European Union. Combating legal discrimination against women and girls has been one of major priorities identified in the Gender Regional Platform (2015-2017) and in the Euro-Med Civil Society Conference Declaration (22 November 2017 Cairo). It was underlined as a priority in the 4th UfM Ministerial Declaration on Women's Rights (27 November 2017, Cairo).

The 4th UfM Ministerial Declaration presented an Action Plan towards achieving gender equality in the Euro-Med Region, focusing on four actions.

One of these actions is:

“Combating all Forms of Violence Against Women and Girls through measures and actions towards: a) Enforcing legal and policy framework to eradicating VAWG; b) Promoting a holistic approach that includes Prevention, Protection, Prohibition, Response and Public Awareness”

The roundtable gathered legal and gender experts and researchers from Algeria, Egypt, Jordan, Lebanon, Morocco, Palestine, Syria, Tunisia, France and Sweden, as well as representatives from the Office of the Minister of State for Economic Empowerment of Women and Youth (EEWAY) and the EU Delegation to Lebanon.

The roundtable discussed discriminatory laws in Algeria, Egypt, Jordan, Lebanon, Morocco, Palestine and Tunisia. Experts exchanged views on the situation in each country, ways and means to address and amend discriminative laws, including national and regional advocacy strategies.

It was emphasized that legal discrimination both reflects and justifies a lack of comprehensive gender equality approach de jure and de facto. Legal discrimination perpetuates all forms of violence and injustice that affect women in all spheres and at all stages of their lives. Experts discussed thoroughly legislation justifying early and forced marriages, crimes committed in the name of “honor”, legal discrimination in custody, divorce, inheritance, land property, guardianship, as well as domestic violence and nationality laws. They also underlined challenges women face in accessing justice due to lack of financial resources, information on procedures and remedies or high illiteracy rates. They become subjects of family mediation and other traditional dispute resolution mechanisms, which put women even more at risk. Consequences of conflict and occupation further negatively affect the status of women.



Experts emphasized some major challenges concerning the jurisprudence on which legislation is based. As equal recognition of rights and duties defines citizenship, affirming constitutional equality is nothing more than making both women and men full citizens. Therefore when States hold reservations to affirm formal and legal discrimination of women in personal status matters (divorce, marriage, inheritance, property, and custody) this amounts to denying women their full citizenship, which is the purpose of the Convention for Elimination of all Discrimination against Women (CEDAW). Introducing reservations is contrary to the object and purpose of the treaty and hence invalid according Vienna Convention on the Laws of Treaties of 1969. Interference of religion as a source of legislation was viewed as another challenge to improve legislation. Furthermore, the idea that “honor” and “dignity of family and society” depend on women is used to legitimize violence against women, rather than to criminalize it.

It was underlined that annulling discrimination in law is the responsibility of all: it is not only grounded in governmental politics and policies, but also is a matter of community engagement to combat prevailing masculine mentality and heavy social burden of patriarchal traditions abusive to women. Tunisia was given as an example of community-based work, where discussion of legislation took place through a real community dialogue. This community-based process had positive consequences for the adoption of fair legislation for women. The role of Media was also discussed as essential in raising awareness and deconstructing gender stereotypes. The need to take into account the degree of development in societies (poverty, illiteracy and the magnitude of the violation of women's rights) while developing strategies was also emphasized.

Experts discussed in depth different strategic approaches in addressing legal discrimination. Since the situation differs from one country to another, they emphasized that the strategic approach adopted should be based on a thorough analyses of the different legal contexts where we either face discriminatory laws, or the absence of comprehensive laws, or the lack of means to implement them, or their improper application due to the discretionary power granted to the judges.



From left to right: Monia Kari and Khaled Mejri - Tunisia; Maya Rahabi - Syria; Zahra Ouardi - Morocco

Experts also discussed two different approaches in achieving legal change: on the one hand, focusing on some priorities considered as urgent and addressing specific provisions of the laws, for example, provisions related to inheritance and custody. On the other hand, tackling the personal status laws/family law as a whole and asking for a development of an optional Civil Code.

They also discussed the scope of the advocacy work to be done in the frame of the campaign: focusing on discriminations in the Personal Status Laws and the Penal Codes or raising also the issue of the Nationality Law which, in most countries of the South-Mediterranean, prevents women from passing their nationality to their children on an equal basis with fathers and results in significant rights violations.

The role of religion was considered. Even if it has long been used to diminish women's rights, experts underlined that the role and impact of religious considerations in Arab societies can't be ignored. Therefore, the issue should be dealt with by engaging communities and decision makers for social justice for both women and men, and approaching enlightened religious figures who could support women's rights.

Lastly experts discussed the need to build argumentation on amending discriminative laws and engage the decision makers in a legal reform process.

Legal arguments for the elimination of discriminatory articles

- ▶ International conventions ratified by States make them legally binding. Reservations on CEDAW are in contradiction with the principles of international treaties set out in the Vienna Convention on the Law of Treaties of 1969.
- ▶ National Constitutions of the majority of the South neighborhood countries contain general provisions emphasizing equality, prohibition of discrimination and other general rules which can be invoked to prove that national legislation which discriminates against women violates the provisions of national constitutions themselves.

Next Steps

- ▶ **Common approach will be applied in addressing legal discrimination in three main categories:**
 - o Family laws: marriage, divorce, custody, guardianship, citizenship
 - o Legislation on VAWG: from marital rape to “disciplinary” authority.
 - o Women’s economic participation: inequality in inheritance, equal pay for equal work, sexual harassment at work.

- ▶ **A consolidated paper will be produced by the experts. It will cover in each country:**
 - o Laws or articles that should be amended.
 - o The problematic nature of those texts with regards to international law.
 - o The desired change required.
 - o Suggested activities to be implemented to achieve the desired change.

The paper will be presented at a regional civil society conference on addressing discriminative legislation, to take place on 10th of December in Tunisia.



Click [here](#) to read the press release, and [here](#) to view the photo album