



Australian Government
Refugee Review Tribunal

Country Advice

Lebanon

Lebanon – LBN36877 – Women –
Domestic violence – State protection –
Police – Custody laws
8 July 2010

1. What protection is available to women who are victims of domestic violence in Lebanon?

Women who are victims of domestic violence are not currently protected under Lebanese law. In April 2010 the Lebanese Cabinet endorsed a draft law which provides protection to victims of domestic violence. The Protection of Women from Family Violence Bill was forwarded to Parliament for approval and was set to be discussed in the parliamentary session of 6 July 2010. However, no further progress on this bill has been reported. Although a significant achievement in the protection of women's rights, the law has not yet been implemented. As current laws in Lebanon do not criminalise domestic violence, victims may continue to be denied adequate protection unless the new bill is effectively implemented and societal attitudes to domestic violence change.

Domestic violence and marital rape are not criminalised under Lebanese law. The prosecution of perpetrators in domestic violence cases is limited to the application of general forms of violence under laws such as the Penal Code. However, these laws do not consider the familial relationship between the perpetrator and the victim in domestic violence cases. The Penal Code also fails to recognise rape within marriage and does not punish perpetrators of any abuse, including rape, if the victim is his wife. The legal system also discriminates against women in cases of honour crimes. The Penal Code allows a man who kills his wife, or a female relative, to receive a reduced sentence of seven years imprisonment "if he can prove that he witnessed the victim engaging in illegal sexual intercourse".¹

No authoritative figures exist regarding the number of women who are victims of domestic violence, or the nature of the abuse. A 2010 Freedom House report claims that local NGOs who assist these victims provide the most reliable statistics. They estimate that domestic violence affects at least 75 percent of Lebanese women at some stage in their lives. Almost 80 percent of these victims have also suffered spousal rape. However, many cases are not reported due to the discrimination against women in the religious courts that deal with personal or family laws. These courts also view domestic violence as a private, family matter. In some cases, victims are ordered to return to the marital home despite reports of abuse. Furthermore, due to the perception of domestic violence as a private issue, security forces are prohibited from assisting a victim of domestic violence unless a formal complaint is filed with the police.²

¹ Coalition of Civil Society Organisations in Lebanon for the UPR – CCSOL 2010, 'Submission to the Office of the High Commissioner for Human Rights on the occasion of the 9th session of the Universal Periodic Review: December 2010' – Attachment 1; US Department of State 2010, *Country Reports on Human Rights Practices for 2009 – Lebanon*, 11 March, Section 6 – Attachment 2; Chemali Khalaf, M. 2010, 'Women's Rights in the Middle East and North Africa 2010: Lebanon', Freedom House, 3 March – Attachment 3; Clark, S. 2008, 'Lebanese women still vulnerable to violence', *The Daily Star*, 9 June – Attachment 4

² Chemali Khalaf, M. 2010, 'Women's Rights in the Middle East and North Africa 2010: Lebanon', Freedom House, 3 March – Attachment 3; Antelava, N. 2009, 'Lebanon's hidden problem of domestic abuse', *British*

The UK Home Office states that legal assistance is provided by the Lebanese government to victims of domestic violence who cannot otherwise afford it. However, the discrimination against women in the legal system prevents victims from seeking protection from the authorities. Although some convictions for domestic violence have been reported, it is argued that “the authorities are not always able and willing to provide sufficiency of protection”. Nevertheless, victims may be able to receive protection from non-governmental organisations (NGOs) or extended family members.³

Some reports indicate that domestic violence against women is receiving greater recognition in the public arena. A leading religious figure openly condemned such violence until his recent death on 4 July 2010. Senior Shiite cleric Sayyed Mohammad Hussein Fadlallah issued a fatwa in 2007 calling for the elimination of violence against women. The fatwa stated “that Islam forbids men from exercising any form of violence against women” and, as such, “women could react against corporal violence when they were victimized”. Furthermore, he argued that “[c]rimes of honor represented an action that was abhorrent and should be condemned”.⁴

The Family Violence Bill

The Family Violence Bill was prepared by a coalition of NGOs called the ‘National Coalition to Criminalize Domestic Violence’. The bill was approved by the Lebanese Cabinet on 6 April 2010 and was listed on the agenda for the parliamentary session of 6 July 2010.⁵ However, no further reports on its progress are available.

The Family Violence Bill aims to transfer cases of domestic violence to specialised, civil law family courts, thereby addressing the discriminatory provisions against women in both the personal status laws of religious courts and the penal laws regarding family violence. The bill would therefore give women of all religious denominations equal rights under the law, as well as require the state to take responsibility for the protection of women who are victims of domestic violence.⁶

The bill further allows for cases of domestic violence to be addressed “in private hearings that include judges, social workers, forensic doctors and psychotherapists”. Specialised police units within the Internal Security Forces (ISF), which include female officers with

Broadcasting Corporation (BBC), 3 December – Attachment 5; ‘Move to take domestic violence cases out of religious courts’ 2009, *Integrated Regional Information Network (IRIN)*, 23 September – Attachment 6; US Department of State 2010, *Country Reports on Human Rights Practices for 2009 – Lebanon*, 11 March, Section 6 – Attachment 2

³ UK Home Office 2009, *Operational Guidance Note: Lebanon*, 10 June – Attachment 7

⁴ ‘UN considers Lebanon report on Discrimination against women’ 2008, *Ya Libnan*, 24 January

http://yalibnan.com/site/archives/2008/01/un_considers_le.php – Accessed 30 June 2010 – Attachment 8; Clark, S. 2008, ‘Lebanese women still vulnerable to violence’, *The Daily Star*, 9 June – Attachment 4; Cambanis, T. 2010, ‘Grand Ayatollah Fadlallah, 75, Revered and Militant Shiite Cleric, Dies in Lebanon’, *The New York Times*, 4 July http://www.nytimes.com/2010/07/05/world/middleeast/05fadlallah.html?_r=2&ref=world – Accessed 5 July 2010 – Attachment 9

⁵ Coalition of Civil Society Organisations in Lebanon for the UPR – CCSOL 2010, ‘Submission to the Office of the High Commissioner for Human Rights on the occasion of the 9th session of the Universal Periodic Review: December 2010’ – Attachment 1; ‘Gender Based Violence: The Law to Protect Women from Family Violence’ (undated), KAFA (enough) Violence & Exploitation website

<http://www.kafa.org.lb/FOA.aspx?code=1&Dcode=13&title=The%20law%20to%20Protect%20Women%20from%20Family%20Violence> – Accessed 30 June 2010 – Attachment 10; Nasawiya 2010, ‘Family violence bill listed on the agenda of parliamentary session set for 6 July 2010’, Twitter, 1 July

<http://twitter.com/nasawiya/statuses/17489694395> – Accessed 2 July 2010 – Attachment 11

⁶ ‘Move to take domestic violence cases out of religious courts’ 2009, *Integrated Regional Information Network (IRIN)*, 23 September – Attachment 6; Human Rights Watch 2010, *World Report 2010 – Lebanon*, January – Attachment 12; ‘Enough: ending private justice and violence against women’ 2008, Open Democracy website, 26 November <http://www.opendemocracy.net/audio/enough-ending-private-justice-and-violence-against-women> – Accessed 30 June 2010 – Attachment 13

domestic violence training, would also be established.⁷ In addition, the bill requires witnesses of domestic violence to report incidents, and allows for the imposition of legally binding restraining orders. Perpetrators would be ordered to provide alternative living arrangements for the victim, pay them an allowance, and pay related medical expenses.⁸

2. Will the police prosecute men who perpetrate domestic violence?

According to Lebanese NGO KAFA (Enough) Violence and Exploitation, prosecution for domestic violence and spousal rape is rare.⁹ In addition, the punishments handed out to perpetrators of honour crimes are lenient.¹⁰ The lack of protection offered to domestic violence victims under Lebanese law is exacerbated by the fact that the police often fail to report domestic violence cases. Although police may record violent incidents against women, their reports often do not identify the perpetrator. In most cases, allegations of domestic violence are ignored by the police, and the victims are instructed to sort out their problems at home. The lack of a specific law relating to family violence, and the perception that such incidents are a family matter, informs the reluctance of the police to intervene. In addition, hospitals often report cases of abuse as 'home accidents' without making any further investigations.¹¹

3. Are there refuges or similar?

The Government of Lebanon claims to provide free shelters with 100 beds for domestic violence victims.¹² However, a 2009 article reports that there are only four safe houses in Lebanon, which can accommodate 40 women in total. This is inadequate for the more than 500 abused women who seek protection at women's centres each year, notwithstanding the many more cases of domestic violence that are not reported.¹³ However, Lebanon's Ministry of Social Affairs supports a number of NGOs in providing care for women fleeing domestic violence. As well as operating a specialised team which transfers women to the appropriate organisations, the Ministry offers contracts to NGOs and supports them in receiving and rehabilitating abused women.¹⁴

⁷ 'Move to take domestic violence cases out of religious courts' 2009, *Integrated Regional Information Network (IRIN)*, 23 September – Attachment 6

⁸ Human Rights Watch 2010, *World Report 2010 – Lebanon*, January – Attachment 12; 'Move to take domestic violence cases out of religious courts' 2009, *Integrated Regional Information Network (IRIN)*, 23 September – Attachment 6

⁹ US Department of State 2010, *Country Reports on Human Rights Practices for 2009 – Lebanon*, 11 March, Section 6 – Attachment 2

¹⁰ Safa, O. 2010, 'Countries at the Crossroads 2010: Country Report – Lebanon', Freedom House website <http://www.freedomhouse.org/modules/publications/ccr/modPrintVersion.cfm?edition=9&ccrpage=43&ccrcount=191> – Accessed 19 April 2010 – Attachment 14

¹¹ 'Move to take domestic violence cases out of religious courts' 2009, *Integrated Regional Information Network (IRIN)*, 23 September – Attachment 6; 'Liberal Lebanese women suffer under outdated laws', *Agence France Presse (AFP)*, 7 March – Attachment 15; UK Home Office 2009, *Operational Guidance Note: Lebanon*, 10 June – Attachment 7; 'Domestic violence remains hidden in shadow of tradition' 2007, *The Daily Star*, 18 October – Attachment 16

¹² United Nations Division for the Advancement of Women 2009, 'Shelters', The UN Secretary General's Database on Violence against Women, 21 July <http://webapps01.un.org/vawdatabase/searchDetail.action?measureId=17157&baseHREF=country&baseHREFId=752> – Accessed 30 June 2010 – Attachment 17

¹³ 'Move to take domestic violence cases out of religious courts' 2009, *Integrated Regional Information Network (IRIN)*, 23 September – Attachment 6

¹⁴ United Nations Division for the Advancement of Women 2009, 'Funding for NGOs providing services to victims/survivors of violence', The UN Secretary General's Database on Violence against Women, 21 July <http://webapps01.un.org/vawdatabase/searchDetail.action?measureId=17076&baseHREF=country&baseHREFId=752> – Accessed 30 June 2010 – Attachment 18

A 2010 Freedom House report on women's rights in Lebanon explains that "[t]he Ministry of Social Affairs has been cooperating on the issue [of domestic violence] with a number of local NGOs for several years now, in some cases undertaking joint projects with the private groups". NGOs that offer protection for victims of domestic violence include Kafa (Enough) Violence and Exploitation, the Lebanese Council to Resist Violence Against Women, and the Young Women's Christian Association. These organisations all provide shelter, free legal advice, access to social workers, and 24 hour hotlines for reporting abuse and providing counselling to victims. They have also been instrumental in raising public awareness of domestic violence, and developing the Family Violence Bill.¹⁵

Kafa (Enough) Violence and Exploitation, in particular, is often highlighted as a significant support base for women seeking protection from domestic violence. Based in Beirut, Kafa opened Lebanon's first centre for battered women in 2005. Kafa's 'Listening and Counseling Center' offers a range of services, including training in women's rights, legal support, psychiatric assessments and support, court representation, shelter and referral to safe houses. The Global Fund for Women explains that the organisation "fills a critical need for Lebanese women to access safe spaces and resources to resist domestic violence and abuse".¹⁶

4. What is the societal attitude to domestic violence?

The absence of official figures on the number of domestic violence cases in Lebanon can be attributed to the perception of the issue as a private, family matter. State intervention in such matters is seen to violate 'the sanctity of the home'.¹⁷ The discussion of domestic violence is considered to be taboo and, as a result, many victims stay silent "for fear of causing a scandal and bringing shame on the family". Ghida Anani, the program coordinator for women's rights group Kafa, explains that women are required to "be obedient and keep family secrets".¹⁸ These attitudes, along with traditional gender roles and religious practices, and the entrenched nature of violence in social culture, have served as barriers to addressing domestic violence in Lebanon.¹⁹

At a photography exhibition to raise awareness of domestic violence, a spokesman for one of the sponsors emphasised the need to overcome this societal perception of domestic violence as a taboo issue. The Director of Kafa, the main organiser of the event, similarly stated that the suffering of domestic violence victims "remained absent from the social awareness and buried in the maze of the privacies of the families and the social taboos".²⁰

¹⁵ Chemali Khalaf, M. 2010, 'Women's Rights in the Middle East and North Africa 2010: Lebanon', Freedom House, 3 March – Attachment 3; US Department of State 2010, *Country Reports on Human Rights Practices for 2009 – Lebanon*, 11 March, Section 6 – Attachment 2

¹⁶ 'Kafa: Lebanon' (undated), Global Fund for Women website <http://www.globalfundforwomen.org/be-inspired/success-stories/62-general/1381-kafa> – Accessed 30 June 2010 – Attachment 19; 'Domestic violence remains hidden in shadow of tradition' 2007, *The Daily Star*, 18 October – Attachment 16

¹⁷ 'Domestic violence remains hidden in shadow of tradition' 2007, *The Daily Star*, 18 October – Attachment 16; Clark, S. 2008, 'Lebanese women still vulnerable to violence', *The Daily Star*, 9 June – Attachment 4

¹⁸ 'Domestic violence remains hidden in shadow of tradition' 2007, *The Daily Star*, 18 October – Attachment 16

¹⁹ Clark, S. 2008, 'Lebanese women still vulnerable to violence', *The Daily Star*, 9 June – Attachment 4

²⁰ Zaatari, M. 2010, 'Photo exhibition puts spotlight on domestic violence', *The Daily Star*, 22 June http://www.dailystar.com.lb/article.asp?edition_id=1&categ_id=1&article_id=116232#axzz0sP5L4wK5 – Accessed 1 July 2010 – Attachment 20

5. What are the custody laws in Lebanon?

Family and personal status issues, including child custody and divorce, are governed by religious courts, which often discriminate against women.²¹ In divorce cases, women's rights are not always upheld, often leading to difficult custody battles. It is argued that the religious courts often fail to consider women's needs. As a result, decisions regarding child custody are sometimes made without consulting the mother. In all religious courts, aside from Armenian Orthodox, the custody of children is usually awarded to the father. Mothers are rarely even granted secondary custody, with the courts instead favouring extended male relatives or a person chosen by the father. Christian and Shiite mothers lose custody of their children if they remarry, while either parent may lose custody upon religious conversion or if they are responsible for the marriage dissolution. Nevertheless, mothers are generally awarded custody of their children until they reach a certain age, which depends on the sex of the child and the family's religion.²²

Lebanese women's rights organisation KAFA published a set of legal guidelines in 2008 in order to aid social workers in providing basic legal information to women. The booklet provides some information about custody laws in Christian and Muslim communities. In Christian courts, custody lawsuits are filed along with marriage dissolutions or separation suits. Mothers can be denied custody of their children in the following instances:

- If following marriage dissolution or the father's death, she concluded a new marriage.
- If she were disobedient or in case of bad conduct.
- If she provoked the cancellation of common marital life due to an offense committed by her.

A mother does not necessarily need an income to be granted custody, since any fees are the responsibility of the father. Ownership of a house is also not necessary as long as there is a house in which to raise the child. Furthermore, a father may lose his right to custody in cases where he has committed child abuse, and the court may take into consideration a child's refusal to remain with the father.

In Islamic courts, custody lawsuits can be filed by either parent regardless of whether the two parties have separated. Mothers are denied custody rights if they are not Muslim, or if they remarry. Child abuse by the father can result in his loss of custody, in the event that "the abuse reaches the level of causing physical, psychological or educational damages". As with Christian laws, the mother's custody rights are not linked to her financial ability as expenditures and fees are the father's responsibility. In addition, a house needs to be available in which to raise the child; however, the mother is not required to own the property.

A common provision relating to child custody in Lebanon is the right of the father to travel with his child without the consent of the mother, except when the mother has been granted custody. A mother, on the other hand, is not permitted to travel with her child without the consent of the father, regardless of whether or not she has been granted custody.²³ As a result of the discriminatory custody provisions of religious courts, many women are forced to choose between staying in an abusive relationship or leaving their

²¹ Safa, O. 2010, 'Countries at the Crossroads 2010: Country Report – Lebanon', Freedom House website <http://www.freedomhouse.org/modules/publications/ccr/modPrintVersion.cfm?edition=9&ccrpage=43&ccrcountry=191> – Accessed 19 April 2010 – Attachment 14

²² Chemali Khalaf, M. 2010, 'Women's Rights in the Middle East and North Africa 2010: Lebanon', Freedom House, 3 March – Attachment 3

²³ KAFA (enough) Violence & Exploitation 2008, 'Guidelines for Women on Family Laws', KAFA (enough) Violence & Exploitation website <http://www.kafa.org.lb/StudiesPublicationPDF/PRpdf2.pdf> – Accessed 30 June 2010 – Attachment 21

children behind. It is argued that when faced with this decision, a large number of women “favour battery” over the loss of their children.²⁴

The Lebanese Civil Society Movement has developed a draft law requiring civil courts to deal with personal status issues. Approval of such a law would mean that all cases relating to personal status, including child custody, would no longer be heard in religious courts. However, the draft law has not yet been submitted to the government. A workshop on personal status and the draft civil law is to be held in December 2010.²⁵

6. Does a father have the right to take custody of a 12 month old child?

Custody of children is generally granted to mothers until the child reaches a certain age, depending on the sex of the child and the family’s religion. However, all religions in Lebanon allow mothers to have custody of their children until they are at least two years old.

Since 2005, Christian personal status laws have granted custody to mothers until their children are 12 years old. This applies to both male and female children. Current Sunni custody laws grant custody to mothers until their children are 7 (for boys) and 9 (for girls). Amendments to these laws which would raise the ages to 13 (for boys) and 15 (for girls) have been approved by religious authorities but have not yet been passed by parliament. Catholic mothers technically only have automatic custody rights until the child is weaned at around two years old. However, even after this period has expired, a mother may be able to retain custody of her children if it is in the best interests of the child, as determined by the relevant court.²⁶

The legal guidelines on custody rights provided by KAFA include the following information on the mother’s custody entitlements in various religions:

- Catholic Communities: Custody age in force is the nursing age, i.e. two years. Nevertheless, the religious court possesses the discretionary authority to choose the guardian according to the minor’s best interest
- Greek Orthodox Community: the custody age is 14 years for the boy and 15 years for the girl.
- Armenian Orthodox Community: Custody age is 7 years for the boy and 9 years for the girl, as it is the case for the Syriac Orthodox and the Assyrian).
- Evangelical Community: Custody age is 12 years (for both girls and boys).
- ...- Shiite: The mother has the right to custody until the age of two for the males and seven for the females, then custody is transferred to the father
- Sunnite: The mother has the right to custody until the age of seven for the males and nine for the females.

However, when children reach legal majority, they may choose with whom to live.²⁷

²⁴ ‘Move to take domestic violence cases out of religious courts’ 2009, *Integrated Regional Information Network (IRIN)*, 23 September – Attachment 6; ‘Domestic violence remains hidden in shadow of tradition’ 2007, *The Daily Star*, 18 October – Attachment 16

²⁵ ‘Workshop puts forward draft personal-status civil law’ 2010, *The Daily Star*, 6 July http://www.dailystar.com.lb/article.asp?edition_id=1&categ_id=1&article_id=116753#axzz0swlrtR95 – Accessed 7 July 2010 – Attachment 22

²⁶ Chemali Khalaf, M. 2010, ‘Women’s Rights in the Middle East and North Africa 2010: Lebanon’, Freedom House, 3 March – Attachment 3

²⁷ KAFA (enough) Violence & Exploitation 2008, ‘Guidelines for Women on Family Laws’, KAFA (enough) Violence & Exploitation website <http://www.kafa.org.lb/StudiesPublicationPDF/PRpdf2.pdf> – Accessed 30 June 2010 – Attachment 21

Attachments

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8. 'UN considers Lebanon report on Discrimination against women' 2008, *Ya Libnan*, 24 January http://yalibnan.com/site/archives/2008/01/un_considers_le.php – Accessed 30 June 2010.
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16. 'Domestic violence remains hidden in shadow of tradition' 2007, *The Daily Star*, 18 October. (CISNET Lebanon CX186710)
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