

كسر القوالب Breaking the mold

#Breaking_The_Mold

Arab Civil Society Actors and their Quest to Influence Policy-Making

Country: Iraq

Violence Against Women in Iraq and The Law Against Domestic Violence

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CASE STUDY BACKGROUND

Numerous reports and statistics confirmed the various forms of violence against women after the war in 2003. Suzan Aref indicated the degrees of violence that were supposed to set off the alarm bell in her report that she submitted to the United Nations Security Council in August 2018 (Aref, 2018). This deterioration is related to several factors, such as the deterioration of the security and economic situations, the absence of laws protecting women from violence, the weakness of institutions in charge of implementing the law, the spread of insecurity and the absence of accountability and inspection, and the rise of religious parties with a conservative perception towards women's rights and their role in the family and society (IWHR, Madre and OWFI, 2015). The permanent tribal and religious customs and traditions also directly impacted women's exposure to multiple forms of violence (interview with legal expert Dr. Bushra Al-Obaidi, 2019).

Women are exposed to various forms of violence such as beating, murder, forced marriage, child marriage, as well as the spread of the phenomenon of illegal marriage (an interview with Hajar Y.). The phenomenon of forced divorce has also spread for not registering marriage in governmental institutions, which made women victims of many forms of violence, trafficking in women and the so-called honor crimes and deprivation of education and work. Women have also become a tool in resolving conflicts, negotiations and clan disputes or settling them (Coalition of Non-Governmental Organizations in the shadow report of CEDAW, 2016).

No accurate statistics are available to indicate the rates of violence against women. However, according to the United Nations Population Fund's report

The present study seeks to shed light on feminist civil society organizations' role in presenting the bill on protection against domestic violence. The case study adopted a qualitative research methodology benefiting from the relevant literature. It also conducted in-depth interviews and asked open questions to know participants' perceptions and ideas in this campaign, which are the legal expert, Dr. Bushra Al-Obaidi, and the civil activist and the president of the Iraqi Amal Association, Hana Adwar, and a victim of domestic violence (Hajar Y.).

TIME FRAME OF THE CASE STUDY

Feminist and human rights organizations have sought to promulgate a law to criminalize violence against women since the end of the war in 2003; nevertheless, the first draft was submitted between 2010 and 2012 by the government committee in charge of drafting the law. The committee consisted of representatives of several ministries, including the Ministries of State for Women Affairs, Interior, Labor and Social Affairs and Health, representatives of civil society organizations and legal experts. The committee consulted many official and non-official entities and had visits to look into Kurdistan and Jordan's experience in this regard. After the civil society organizations and the relevant committee made the law's first draft, the latter was sent in October 2012 to the Iraqi government to submit to the State Council for review. The organizations had to wait for almost two and a half years before obtaining a response from the State Council, but it was known later that the new draft, modified by the council, had been emptied of its main content (Interview with Hanaa Adwar).

Date	Authorized entity	Task	Outcome
2012-20-10	Ministries: Women's Affairs, Interior, Labor and Social Affairs and Health	Writing the first text of the law against domestic violence. Visits to Kurdistan and Jordan.	Sending the text to the Prime Minister
2012	Cabinet	Referring the draft to the State Council	Waiting for a response from the Shura Council
2014-2012	The draft submitted to the State Council	Re-amending the text by the Shura Council	Reformulating the articles by the Shura Council
2015-2014	Civil society organizations defend in the Parliament	Three seminars for civil society organizations to vote on the law	Civil society organizations gaining supporters for the law in Parliament
2015	The Government submitted it to the Parliament	A first reading of the bill	Being rejected by the Islamic parties
2017-2016	Some civil society organizations in Najaf	Discussing and obtaining the support of religious references	The confirmation of three religious authorities
2017	Some civil society organizations react to have parliamentary and party figures	Holding a meeting by the civil society organizations with the legislative committee of the National Alliance (a coalition of ruling Shiite parties)	Agreeing on a formula to submit for voting for Parliament Defining violence
May 2017	Some civil society organizations holding a conference in Erbil	Convincing Members of Parliament and opponents of the legitimacy of the law	Changing the positions of some towards acceptance
2017	The Iraqi Parliament	A second reading of the law	Rejecting the law by the Islamic blocs
2018	Electing a new parliament and appointing a new government	Returning the law to the Iraqi government for consideration and if it wants to present it to Parliament or submit another draft	Not receiving any response from the government at the time of writing this report

THE ROLE OF CIVIL SOCIETY IN ENACTING THE LAW ON PROTECTION AGAINST DOMESTIC VIOLENCE

Feminist organizations called for the law's legislation to include articles stipulating the availability of safe centers for women and sanctioning the criminals. Feminist networks were formed, such as the Iraqi Women's Network, which includes Iraqi feminist organizations, and organized many campaigns and activities. Within their circles, the organizations worked individually to stress further on enacting this law, such as the Rafidain Women Coalition Association, Organization of Women's Freedom and No Violence Against Women Group in Kirkuk, and others.

STRATEGIES OF FEMINIST ORGANIZATIONS TO PASS THE LAW:

FEMINIST ORGANIZATIONS ADOPTED A MULTIDIMENSIONAL STRATEGY:

The first is working from the top, i.e., negotiating with governmental institutions, representatives of political parties, Members of Parliament and religious authorities. Feminist organizations have shown a high adaptation to pass the law. The organizations agreed to change the name of the law from "combating violence against women" to "protection against domestic violence", meaning not only focusing on violence against women but also including children and men in this law. Feminist organizations also agreed to define violence and its forms, and parliamentarians presented it as an act that causes physical and moral harm to battered people. Furthermore, in their meetings with state officials and party representatives, feminist organizations sought to clarify the negative social impacts on society if violence was not criminalized. And in their meetings with clerics, heads of religious endowment committees and politicians from Islamic parties, feminist activists emphasized that "the project does not contradict religious legislation". They added that "confronting violence does not contradict religious values that encourage love and harmony" (interview with Hanaa Adwar), and that "establishing

protection centers for women supervised by state institutions is better than for battered women falling into groups of women trafficking gangs" (An interview with Bushra Al-Obaidi).

Secondly, horizontal work, i.e., networking and working with Iraqi feminist and human rights organizations, share the same goals. Many feminist organizations met in the Iraqi Women's Network to play a negotiating role alongside other organizations that worked in this field. Nevertheless, the field research revealed that civil society, including feminist organizations, is inconsistent internally. It does not always have a constant discourse. Sometimes, it is attracted by financial and economic goals in parallel with the search for protecting women (an interview with Bushra Al-Obaidi). That shows the different and dissimilar priorities of these organizations and affects their working harmony.

Third, working from below. Feminist organizations and networks held several seminars and lectures to educate on the importance of issuing this law with female and male employees of state institutions. They also organized meetings with women and men in Baghdad and other governorates in various locations, and they relied on all the official and social media outlets (social media) to achieve their goals.

Fourth, the Iraqi feminist organizations sought international organizations' support to shed light on this law, which was represented by supporting workshops and seminars. Furthermore, the Dutch "Hivos" organization supported the workshops held by the Iraqi Al-Amal Association in cooperation with the Ministry of State for Women Affairs, particularly the workshop held in Beirut on July 19-21, 2012, which included civil society organizations, men, women, Members of Parliament and legal experts. In 2015, the "Freedom of Women in Iraq" organization called the international community and the United Nations Security Council for protecting women's shelters in Iraq. The council sent a recommendation to the Iraqi government to protect women and allow the process of

providing and facilitating access to women's shelters (Statement of Women's Freedom in Iraq, 2017). Many associations such as the "Baghdad Women Association" formed committees of legal experts to find gaps in it and to provide recommendations and research related to its clauses and paragraphs" (Ibrahim, 2017). The Rafidain Women's Organization also exerted pressure on them concerning this law as well.



A feminist demonstration in Baghdad - Tahrir Square, on March 8, 2019, to demand the passage of the Law on Protection Against Domestic Violence

INFLUENCING FACTORS

THREE MAIN FACTORS CONTRIBUTED TO THE DRAFT BILL CRIMINALIZING VIOLENCE AGAINST WOMEN:

First, the high increase in domestic violence rates and directing problem resolution related to personal status to non-governmental institutions such as clans and families are often ruled by patriarchy. Hence, disputes are usually resolved in the interest of men and the underestimation of violence against women. On the other hand, the legal texts that formally legalize the right to practice violence against women constituted an incentive for feminist organizations to promulgate a new law prohibiting violence against women. According to Bushra al-Ubaidi, some articles in the Iraqi Penal Code encourage violence, such as Article 41 and Law No. 111 of 1969. These laws do not recognize the existence of any crime in practicing violence against women, given that disciplining a woman is a man's right, as it is considered in the law, custom and Sharia. (Interview with Bushra Al-Obaidi).

Second, feminist organizations began to provide various forms of support to battered women. They concluded that one of the crucial ways to stop violence is to draft a law to combat violence against women or protect them against domestic violence and repeal laws that contradict the Law of Protecting Women Against Domestic Violence (Interview with Bushra Al-Abidi).



Third, the pressure of the international organizations. Evidence confirmed that international organizations such as the United Nations and international organizations tackling women's rights and foreign embassies had a significant role in exerting pressure on the Iraqi government to adopt policies and strategies to protect women. For instance, in December 2018, they approved a strategy to protect women against domestic violence between Iraq and the United Nations.

TRANSFORMATIONAL MOMENT

Writing a law to protect women against violence began after the United Nations Population Fund commissioned legal experts, such as the legal expert, Dr. Bushra Al-Obaidi, to write a strategy to end violence against women in 2008. After continuous work for two years, the concerned team proposed to write a law to protect women against violence (interview with Bushra al-Obaidi). The Ministry of State for Women's Affairs welcomed this proposal; thus, a committee was formed to undertake the task of drafting the law. Civil society organizations were included in this committee and representatives of various ministries, legal experts and feminist activists. The committee held dozens of sessions and came out in 2012 with the first draft (Hana Adwar - Amal Association). Religious references that did not oppose the draft played a role in strengthening the negotiating role of feminist organizations.

POLITICAL RESULTS

There was no voting on the Law against Domestic Violence presented by the Law Committee. When the feminist organizations submitted proposals in the draft law about the necessity to provide protection centers for women or safe homes, the Islamist deputies refused a bill that contradicts Islamic principles. The Islamic parties considered that this law would destroy the family entity and increase women and children's rebellion against their husbands and fathers. The former Minister of Justice, Hassan Al-Shammari, representing the Shiite Islamic Virtue Party, stood against the law, which hindered this law's ratification. However, with the new Iraqi government's formation after the elections in April 2018, the law was returned to the government again to decide to assign a new committee to draft a new law or return it to the Parliament for voting. But the failure to legislate the law in the previous parliamentary session means referring the draft to the current parliamentary session and the new government and "wasting all the efforts made during three elections between 2012 and 2019" (Bushra Al-Obaidi).

CONCLUSIONS AND LESSONS LEARNED

THE PRESENT CASE STUDY PROVED THE FOLLOWING LESSONS:

The necessity of a single feminist reference that brings together all feminist organizations to strengthen their negotiating position. Bushra Al-Obaidi attributes the lack of approval of the law to the lack of harmony among feminist organizations. When many organizations managed to conclude an agreement with the Legislative Committee of the National Alliance, which includes Shiite Islamic parties, and was close to obtaining the approval of the Legislative Committee and the parties representing it, many feminist organizations initiated to organize meetings and agree with a group of organizations, which led to the failure to conclude an agreement with the governmental agencies, and thus weakening the negotiating ability of feminist organizations, especially that they do not have any internal harmony.

On the other hand, although feminist organizations held seminars and workshops to raise awareness and defend the legitimacy of issuing this law, field research did not reveal any evidence that these organizations involved women who have a real interest in changing and enacting the law, particularly battered women. Hence, it appears that these organizations are working “on behalf of” the affected communities without involving them in the legal field of conflict.

Finally, despite the publication of information on forms of violence against women and children on social media, which gave legitimacy to the demand for the adoption of the law criminalizing domestic violence (interview with Bushra al-Abidi), feminist organizations did not rely on the media sufficiently to serve the cause.



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BREAKING THE MOLD PROJECT

In mid-2018, the "Civil Society Actors and Policymaking in the Arab World" program at IFI, with the support of Open Society Foundations, launched the second round of its extended research project "Arab Civil Society Actors and their Quest to Influence Policy-Making". This project mapped and analyzed the attempts of Arab civil society, in all its orientations, structures, and differences, to influence public policy across a variety of domains. This research produced 92 case studies outlining the role of civil society in impacting political, social, economic, gender, educational, health-related, and environmental policies in ten Arab countries: Lebanon, Syria, Palestine, Jordan, Egypt, Morocco, Tunisia, Yemen, and the Arab Gulf.

Over two dozen researchers and research groups from the above countries participated in this project, which was conducted over a year and a half. The results were reviewed by an advisory committee for methodology to ensure alignment with the project's goals, and were presented by the researchers in various themed sessions over the course of the two days.

THE CIVIL SOCIETY ACTORS AND POLICY-MAKING PROGRAM

at the Issam Fares Institute for Public Policy and International Affairs at AUB, examines the role that civil society actors play in shaping and making policy. Specifically, the program focuses on the following aspects: how civil society actors organize themselves into advocacy coalitions; how policy networks are formed to influence policy processes and outcomes; and how policy research institutes contribute their research into policy. The program also explores the media's expanding role, which some claim has catalyzed the Uprisings throughout the region.

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