

Protection against Domestic Violence in Jordanian Law and International Conventions

Laith K. NASRAWIN^①

(School of Law, University of Jordan)

Abstract: Domestic violence is one of the most important obstacles to the promotion and protection of human rights in the regionally and globally, particularly given the nature of this phenomenon and the problems that accompany it, as well as the difficulty of disclosure, and the multiplicity of legal, social and economic causes that prevent prosecution in some cases. This situation necessarily entails the continuation of national, regional and international efforts to eradicate the scourge of domestic violence in all its forms and manifestations, from the basic understanding that practicing violence cannot be justified under any circumstances. Jordan, like other countries of the world, has undertaken a number of procedural, administrative, judicial and legislative measures to combat and eliminate the phenomenon of domestic violence.

Key Words: *Domestic Violence; Jordan; Law; International Conventions*

I. Introduction

Domestic violence is one of the most important obstacles to

^① Dr. Laith K. NASRAWIN, associate professor in Public Law, School of Law, The University of Jordan, Amman, Jordan.

the promotion and protection of human rights in the region and globally, particularly given the nature of this phenomenon and the problems that accompany it, as well as the difficulty of disclosure, and the multiplicity of legal, social and economic causes that prevent prosecution in some cases. This situation necessarily entails the continuation of national, regional and international efforts to eradicate the scourge of domestic violence in all its forms and manifestations, from the basic understanding that practicing violence cannot be justified under any circumstances (Olwan, M. & Almousa, M., 2011: 513-515).

International efforts have recorded many positive experiences in a bid to combat the phenomenon since the beginning of the last century, through the issuance of many of the recommendations and declarations that have been issued, periodic international conferences, access to special rationing represented in the Convention on the Elimination of All Forms of Discrimination against Women, conventions of human rights, and declarations focusing on opposition to violence against women (Dahlberg, L. & Toal, S., 2005: 2-4). Nonetheless, the reality of the situation still points to the continuation and increase of this phenomenon in most regions of the world, and especially in the Middle East and North Africa (Abuelghanam, D., 2014: 284-286). This constitutes an obstacle to the global movement for protection in general and the promotion of women's rights in particular, and to ensure their enjoyment of human rights in an optimal manner.

Jordan, like some other countries in the world, has undertaken a number of procedural, administrative, judicial and legislative measures to combat and eliminate the phenomenon of domestic violence. It has created many public welfare institutions and has given them a general mandate to provide protection programmes and promotion in all regions of the Kingdom, and to

contribute to the development of related domestic violence legislation. National efforts in the face of domestic violence culminated in the Law Regarding Protection from Domestic Violence No. (6) for the year 2008^①, the aim of which being primarily to preserve family ties, the elimination of the crime of domestic violence, and to reduce the consequences of criminal proceedings.

II. Definition of Domestic Violence and Its Causes

Despite the progress made in the field of human rights in general and women's rights in particular, the issue of domestic violence continues to be a question that stalks communities in terms of not being able to control this phenomenon and diagnosing its true reasons. The figures and statistics show a steady increase in cases of domestic violence, although it was always difficult to gather accurate statistics about cases of domestic violence because of the nature of these crimes, and the state of isolation which controls the communities and prevents the disclosure of such crimes.

The phenomenon of domestic violence is not the result of time, a particular circumstance or specific cultural or civilizational, economic or political situation. It is an accumulation over ages, and the product of a shared cultural heritage which justifies domestic violence as a result of an internal motivation resulting from accumulations since the early stages of growth in childhood and adolescence, the consecration of thought and the relative power of male to female (Davis, R., 1998: 8-9). So, the growing phenomenon of domestic violence is significant to real needs, and

^① The Law Regarding Protection from Domestic Violence No. (6) for the year 2008 is published on page (821) of the Official Gazette No. (4892) dated 16 March 2008.

necessitates a comprehensive review of the policies and legislation to limit this phenomenon. The high incidence of domestic violence also confirms that the efforts made during the past years have not worked to counter this phenomenon, which represents a flagrant violation of the right to life and physical integrity and to live with dignity (Clark, C. & Hill, A. & Jabbar, K. & Silverman, J., 2009: 3).^① Therefore, the fight against this phenomenon has become a priority concern of all interested and involved, and a shared responsibility of governments, national institutions and civil society organizations, and international and regional organizations alike (Macy, R. & Rizo, C. & Johns, M. & Ermentrout, D., 2010: 1138-1141).

In this area, domestic violence can be defined as any physical, psychological or sexual abuse inflicted on another member of the same family. The very beginning to use the term domestic violence in recent studies was during the 1970s, to refer to acts of violence and abuse against wives, however, this concept has been expanded through the 1990s to include all acts of violence between members of one family (Dutton, D., 2006: 5-7). The reasons for the phenomenon of domestic violence are manifold, as is the importance of studying these reasons that push towards an increase in cases of domestic violence in building perceptions about practical solutions and future recommendations that will work to eliminate this phenomenon, or at least mitigate and control it.

Foremost among the causes are domestic economic conditions, widespread poverty and rampant unemployment, violence, and the consequent impact on the ability of parents to withstand social pressures, especially if the father is unemployed, and the family

^① The prevalence of Domestic Violence in Jordan shows that approximately one out of every three women will be abused during her life time.

lives in difficult housing conditions, and have insufficient sources of income for the family needs (Abuelghanam, D., 2014: 284-285). Poverty among women also plays a major role in the spread of the phenomenon of domestic violence, where studies indicate that women are among the poorest segments of society, as they account for 70% of the total poor (Renzetti, C. & Curran, D., 2003: 202). They also do not have the competence and experience of higher education and professional level that enable them to improve their economic status conditions, which increases the incidence of violence on them.

Other causes of the phenomenon of domestic violence are family reasons and the lack of attempts at early intervention of relatives of the husband or wife to control any problems which may arise within the family before they become exacerbated, since studies suggest that most families in which cases of domestic violence occur do not have an extended family in the direct environment, and are thus deprived of the family support necessary to meet and deal with family dilemmas (Cox, F., 2006: 447-450). There are also cultural reasons, which lie in the social culture which sees cruelty and violence as being methods of influence and of extending control. The man, according to the community culture, is the boss in the family, and he is not expected to pay attention to any other point of view provided by his wife or even his sons (Naffa, L. & Al Dabbas, F. & Jabiri, A. & Emam, N., 2007: July).

Additionally, domestic violence is a natural extension of the phenomenon of communal violence; the man who quarrels in the street and at work, or the son who resorts to violence in school or university, will inevitably use the same method in the home in the face of his wife, and the boys from the girls (Kenney, K., 2012: 27).

This also contributes to the lack of educational and cultural policies to increase the phenomenon of domestic violence, with

almost a complete lack of long-term educational programs in schools, universities, colleges and other educational institutions, opposed to domestic violence, and that national - and even international - efforts are limited to holding some workshops and training programs, conferences and plays that do not usually have a positive impact on the eradication of this phenomenon, and that the media deal with this phenomenon for the purpose of marketing and profit only, and not for the purpose of finding radical solutions to the problem (Newman, W. & Mewman, E., 2008: 5-8).

The weakness of moral and value-based education plays an important role in the growing phenomenon of domestic violence, the concomitant overlapping cultures and marketing of all that is new, and the involvement of generations in direct daily communication has led to a state of chaos in the ethical system (*UN Secretary General's Report*, 2006: 53). The value in the communities, in which they cannot develop the intellectual educational bumpers that will limit the impact of modern technology, which reflects negatively on the constructive role of the family and the role of parents.

In addition to the previous reasons for poor coordination and real networking among institutions that fall within their competence against domestic violence, almost all national programs in this context do not search for real solutions. It is unreasonable that the efforts and actions that have been made in more than twenty years at the level of national action by institutions or individuals have been unable to accomplish anything noteworthy on the ground, in addition to the weakness of social protection programs, as the protection provided by programs has not yet lived up to the point where it can be considered to constitute all elements of the pillars of protection of

battered women, according to international standards. There should be a real alternative which any woman can consider in the event of family violence, as many of the shelters are still unable to exercise their role, and need to supply them with expertise and human cadres to respond to cases of domestic violence.

This contributes to the growing phenomenon of domestic violence and the victims of domestic violence care, as there are no legislative and institutional rules to protect battered women, or take care of their children. The children of the family can constitute a pressure tool for parents to make concessions and to maintain the family from disintegration, as there is a predominant belief among large segments of the community that the use by battered women of any institution or judicial body will deprive her of custody of her children.

III. International Standards for Protection against Domestic Violence

The past years have seen a growing trend in international consideration of violence against women, violations of human rights, discrimination on the basis of sex, and violation of freedom of women and girls, undermining UN efforts to promote and protect human rights. A kick-off of international understanding of the concept of general domestic human security is called for by the Secretary-General of the United Nations, and defined in the Millennium Report 2000 as “freedom from want and from fear by providing a suitable environment for education, health, and freedom of movement, work, and enjoy the right to housing, and the freedom of the place, and enjoy all human rights.”^①

The 1948 *Universal Declaration of Human Rights* emphasizes the

^① See Report, ‘We the Peoples’ - The Role of the United Nations in the 21st Century’.

equality of all human family members for the enjoyment of the human rights system (Morsink, J., 1999) ^①, and both the *International Covenant on Civil and Political Rights* (Joseph, S. & Castan, M., 2014) ^② and the *International Covenant on Economic, Social and Cultural Rights* confirm the right of individuals to enjoy their rights without discrimination (Saul, B. & Kinley, D. & Mowbray, J., 2014).^③

However, that international protection was not sufficient to achieve justice in the enjoyment of the rights of the family on an equal footing. Thus, international efforts have begun to pay more attention to mentioning the rights of women in the public international discourse, with the United Nations General Assembly declaring November 25 of each year as the International Day for the Elimination of Violence against Women, inviting governments, international organizations and non-governmental organizations to organize activities to raise public awareness of the problem. Several conferences have also been held to that end, the most important of which were the World Conference on

^① The *Universal Declaration of Human Rights* (UDHR) is a declaration adopted by the United Nations General Assembly on 10 December 1948 at the Palais de Chaillot, Paris. It arose directly from the experience of the Second World War and represents the first global expression of rights to which all human beings are inherently entitled.

^② The *International Covenant on Civil and Political Rights* (ICCPR) is a multilateral treaty adopted by the United Nations General Assembly on December 16, 1966, and in force from March 23, 1976. It commits its parties to respect the civil and political rights of individuals, including the right to life, freedom of religion, freedom of speech, freedom of assembly, electoral rights and rights to due process and a fair trial.

^③ The *International Covenant on Economic, Social and Cultural Rights* (ICESCR) is a multilateral treaty adopted by the United Nations General Assembly on 16 December 1966, and in force from 3 January 1976. It commits its parties to work toward the granting of economic, social, and cultural rights (ESCR) to the Non-Self-Governing and Trust Territories and individuals, including labour rights and the right to health, the right to education, and the right to an adequate standard of living.

Women held in Mexico City in 1975^①, which discussed women's rights, the Copenhagen Conference in 1980^②, the Conference of Nairobi in 1985^③, the Conference on Population and Development in Cairo in 1994^④, and the Conference of Beijing in 1995.^⑤

In 1993, the Vienna World Conference on Human Rights acknowledged that violence against women constitutes a flagrant violation of fundamental human rights, and called for the appointment of a special rapporteur on violence against women.^⑥ Also released in 1995, the Beijing Declaration and Platform for Action put violence against women within the priority of the twelve critical areas of concern, and the agreed conclusions focused on the elimination of all forms of violence against women and girls, and spoke out against them.^⑦ Resolution of the General

^① The Mexico City Conference was called for by the United Nations General Assembly to focus international attention on the need to develop future oriented goals, effective strategies and plans of action for the advancement of women.

^② The Copenhagen Conference called for stronger national measures to ensure women's ownership and control of property, as well as improvements in women's rights to inheritance, child custody and loss of nationality.

^③ The conference aimed at evaluating the progress made during the UN Decade for Women and devise a new course of action for the advancement of women. At the conference, all participants set their differences aside and awarded equal consideration to these interrelated and mutually reinforcing goals.

^④ The conference was coordinated by the United Nations in Cairo, Egypt from September 5-13, 1994. Its resulting Program of Action was the steering document for the United Nations Population Fund (UNFPA).

^⑤ The 1995 Fourth World Conference on Women in Beijing marked a significant turning point for the global agenda for gender equality. The Beijing Declaration and the Platform for Action, adopted unanimously by 189 countries, is an agenda for women's empowerment and considered the key global policy document on gender equality.

^⑥ The World Conference on Human Rights was held by the United Nations in Vienna, Austria, on June 14 to 25, 1993. It was the first human rights conference held since the end of the Cold War. The main result of the conference was the Vienna Declaration and Programme of Action.

^⑦ This Declaration and Platform for Action is an agenda for women's empowerment. It aims at accelerating the implementation of the Nairobi Forward-looking Strategies for the Advancement of Women, and at removing

Assembly of the United Nations concerning the intensification of international efforts to eliminate all forms of violence against women, and trafficking in women and girls was agreed for the year 2012.^①

Despite the fact that these conferences have issued findings and recommendations, they do not constitute a source of legal obligation for states, but they may have contributed to the creation of knowledge and the intellectual accumulation of a large push towards the emergence of an international need to move forward in the age of many of the declarations, conventions and UN documents, which call for activating and protecting the rights of different women, the most important right of which is not to practice violence against women. The culmination of this special international effort to eliminate domestic violence involves the international community issuing the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in 1979 (Freeman, M. & Rudolf, B. & Chinkin, C., 2012)^②, which is considered one of the most important legal mechanisms that can be used to monitor the violation of women's rights in states, and the failure to adopt the necessary measures to protect women from domestic violence practiced against them.

all the obstacles to women's active participation in all spheres of public and private life through a full and equal share in economic, social, cultural and political decision-making. It was adopted at the 16th plenary meeting, on September 15, 1995.

^① Intensification of efforts to eliminate all forms of violence against women (A/RES/67/144, of 20 December 2012).

^② The Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) is an international treaty adopted in 1979 by the United Nations General Assembly. Described as an international bill of rights for women, it was instituted on 3 September 1981 and has a similar format to the Convention on the Elimination of All Forms of Racial Discrimination, with regard to the scope of its substantive obligations and its international monitoring mechanisms. The Convention is structured in six parts with 30 articles total.

The Committee on the Elimination of Discrimination against Women has approved General Recommendation No. (19), which states that when women are subjected to violence because of being a woman, and therefore experience violence based on gender, this undermines the enjoyment by women of human rights and fundamental freedoms under international law or under human rights conventions, or nullifies their enjoyment of those rights and freedoms, and is therefore discrimination under Article (1) of the Convention.

Although the Convention does not cover the issue of violence against women explicitly within its provisions, institutional development has led to giving local institutions and individuals the right to lodge complaints against their countries for violating the provisions of the Convention, under the Additional Protocol to the CEDAW, which was issued in 1993 (Berthold, S., 2015: 85).^① The issuance of this Protocol, which was devoted to the right to make a complaint of paramount importance in the development of international means to combat all forms of discrimination against women, resulted in the addition of a special clause concerning domestic violence in the general recommendations of the CDEAW Committee on the implementation of the provisions of CEDAW. This was considered as an important addition, and has been adopted and approved in writing of international reports.

Of the other international documents related to violence against women, the Declaration on the Elimination of Violence against Women, which was adopted by the General Assembly of

^① The Optional Protocol is an international treaty which establishes complaint and inquiry mechanisms for the Convention of CEDAW. Parties to the Protocol allow the Committee on the Elimination of Discrimination against Women to hear complaints from individuals or inquire into “grave or systematic violations” of the Convention. The Protocol was adopted by the United Nations General Assembly on October 6, 1999, and in force from December 22, 2000.

the United Nations on December 20, 1993.^① It expanded the definition of violence against women by stating that the term 'violence against women' means any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.^②

According to the Declaration, violence against women shall also be understood to encompass, but not be limited to, the following: (a) Physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation; (b) Physical, sexual and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution; (c) Physical, sexual and psychological violence perpetrated or condoned by the State, wherever it occurs.^③

The importance of this Declaration in the elimination of violence against women is that it imposes an obligation on member states to "exercise due diligence in preventing acts of violence against women, investigate and in accordance with their national laws, whether these acts perpetrated by the State or by private persons."^④ This text implies that the existence of a national law criminalizing violence against women by family members is not enough in itself, but governments should give

^① A/RES/48/104, 85th plenary meeting, December 20, 1993.

^② *Declaration on the Elimination of Violence against Women 1993*, Article 1.

^③ *Ibid.*, Article 2.

^④ *Ibid.*, Article 4 (c).

greater effectiveness to its functions in order to ensure the effective investigation of incidents of domestic violence and punish the perpetrators.

Among the international efforts to eradicate the phenomenon of domestic violence is the signing of the Convention on Preventing and Combating Violence against Women and Domestic Violence “Istanbul Convention” of 2011 (Kirchner, S., 2015).^① The Convention aims at achieving equality between men and women, which is an important element in the prevention of violence against women. Also, the preamble of the Convention on the Rights of Persons with Disabilities, adopted on December 13, 2006 (Alfredsson, G. & Grimheden, J. & Ramcharan, B., 2009: 133-136)^②, recognizes that women and girls with disabilities are often at greater risk, both within and outside the home, of violence, injury or abuse, neglect or improper treatment or exploitation.

And within other international efforts to reduce domestic violence, the Commission on the Status of Women (CSW) was established in 1946, as a functional commission of the Economic and Social Council^③, to prepare recommendations that ensure

^① Istanbul Convention is the first legally-binding instrument which ‘creates a comprehensive legal framework and approach to combat violence against women’ and is focussed on preventing domestic violence, protecting victims and prosecuting accused offenders. The convention was adopted by the Council of Europe Committee of Ministers on April 7, 2011. It opened for signature on May 11, 2011 on the occasion of the 121st Session of the Committee of Ministers in Istanbul. It entered into force following 10 ratifications..

^② The Convention on the Rights of Persons with Disabilities is a United Nations international human rights treaty intended to protect the rights and dignity of persons with disabilities. Parties to the Convention are required to promote, protect, and ensure the full enjoyment of human rights by persons with disabilities and ensure that they enjoy full equality under the law. The text was adopted by the United Nations General Assembly on December 13, 2006, and it came into force on 3 May 2008.

^③ The Commission on the Status of Women (CSW) is the principal global intergovernmental body exclusively dedicated to the promotion of gender equality and the empowerment of women. A functional commission of the

economic, social, civil and political rights for women. The powers of this committee were expanded in 1987 to include among its main objectives the promotion of equality, development, and monitoring compliance with the application needed to improve the status of women at the local, regional and international level procedures. This is the fundamental means by which one can resort to them and provide individual and collective complaints about the violation of women's rights.

In terms of international non-treaty mechanisms, the General Assembly of the United Nations issued in 1997 its resolution No. 86/52 on crime and criminal justice to eliminate violence against women, offering preventative measures whereby it called upon member states to: (a) develop and implement relevant and effective public awareness, public education and school programs that prevent violence against women by promoting equality, cooperation, mutual respect and shared responsibilities between women and men; (b) To develop multidisciplinary and gender-sensitive approaches within public and private entities that participate in the elimination of violence against women, especially through partnerships between law enforcement officials and the services that are specialized in the protection of women victims of violence; (c) To set up outreach programs for offenders or persons identified as potential offenders in order to promote the peaceful resolution of conflicts, the management and control of anger and attitude modification about gender roles and relations; (d) To set up outreach programs and offer information to women, including victims of violence, about gender roles, the human rights of women and the social, health, legal and economic aspects of violence against women, in order to

Economic and Social Council (ECOSOC), it was established by Council resolution 11(II) of 21 June 1946.

empower women to protect themselves against all forms of violence; (e) To develop and disseminate information on the different forms of violence against women and the availability of programs to deal with that problem, including programs concerning the peaceful resolution of conflicts, in a manner appropriate to the audience concerned, including in educational institutions at all levels; (f) To support initiatives of organizations seeking women's equality and non-governmental organizations to raise public awareness of the issue of violence against women and to contribute to its elimination.^①

The addendum to this decision, entitled "model strategies and concrete measures on the elimination of violence against women in the field of crime prevention and criminal justice", included a demand that member states "shall review and evaluate their laws and their codes in order to ensure its effectiveness in eliminating violence against women and the preparation of reports on requirements that allow this kind of violence; (b) reviewing and evaluating the criminal and civil law in the framework of the national legal system to ensure that all acts of violence against women are prohibited, and the adoption of measures in the case of non-existence".^②

There are also special committees of the United Nations involved in the implementation of field visits to areas and regions where women suffer under the weight of systematic and widespread violations (Chanley, A. & Chanley, J. & Campbell, H., 2001: 393-400). These committees submit their reports to the UN Secretary-General about the reality of women in those areas. It

^① Resolution on crime prevention and criminal justice measures to eliminate violence against women (A/RES/52/86) February 2, 1998.

^② United Nations Model Strategies and Practical Measures on the Elimination of Violence against Children in the Field of Crime Prevention and Criminal Justice, E/CN.15/2014/L.12/Rev.1, Commission on Crime Prevention and Criminal Justice Twenty-third session Vienna, May 12-16, 2014.

may also pay for the increasing cases of discrimination and violation of women's rights in armed conflicts and wars, and suffering of women from rape and trade in human beings and other types of physical and psychological violence. The Security Council issued resolutions 1325 and 1820 that pertain to women's participation in stopping conflict processes, and in making peace in conflicts and post-conflicts (Barrow, A., 2010: 223).^①

At the judicial level, many of the decisions made by international and regional courts condemn violence against women; among them, for example, the judgment of the European Court of Human Rights against Bulgaria in the alleged violation of Article 8 of the European Convention on Human Rights concerning the right to respect for family life, where Bulgarian authorities had not taken the necessary measures to punish the complainant, and did not open an investigation in favor of the complainant about the continuous forms of violence suffered, by arguing that it was a private issue.^② In another case against Turkey, the European Court of Human Rights pointed out that the acts of violence directed at the complainant and her mother should be considered based on sex, and then would have to be considered as discrimination against women, so the official authorities should have considered this as family violence and taken appropriate measures to deal with it.^③

IV. Standards for Protection against Domestic Violence in Jordanian Law

The Kingdom of Jordan, like other countries in the world,

^① See SC Res. 1325, 31 October 2000 & SC Res. 1820, 19 June 2008.

^② Case of HRISTOVI v. BULGARIA, (Application no. 42697/05), Judgment, Strasbourg, October 11, 2011

^③ Case of Juhnke v. Turkey - 52515/99, Judgment 13.5.2008 [Section IV].

spared no effort in engaging in the global movement to combat violence against women and the ratification of relevant international conventions, and to participate in all the activities that are held in order to eliminate violence against women. Jordan has also enacted national legislation, adopting policies, plans and strategies and other means within the framework to restrict and prevent the spread of the phenomenon of domestic violence.

Jordan's development has been demonstrated in the field of protection from domestic violence in the adjustments made to the Jordanian Constitution in 2011, which has added two new paragraphs to Article 6 of the Constitution.^① The first states that "The family is the basis of society the core of which shall be religion, morals and patriotism; the law shall preserve its legitimate entity and strengthen its ties and values", and the second states that "The law shall protect motherhood, childhood and the old-aged; and shall avail care for the youngsters and those with disabilities and protect them against abuse and exploitation". The Jordanian Constitution, in the first paragraph of article (6), also guarantees the principle of equality between Jordanians, who are equal before the law without any discrimination between them.

Prior to that, Jordan issued the Law Regarding Protection from Domestic Violence No. (6) for the year 2008, and ratified the Convention on the Elimination of All Forms of Discrimination against Women 'CEDAW' in 2007, to become part of the national legal system. Jordan also continues to provide periodic reports to the CEDAW Committee, where it presented in 2012, the fifth periodic report, which pointed to the progress made by the Jordanian state at the level of national legislation which was issued for protection from domestic violence, and the actions

^① The 2011 amendments to the Constitution were published on page (4452) of the Official Gazette No. 5117, dated 1st October 2011.

taken to achieve equality between the sexes, and improve the status of women in the Constitution and the laws and policies of the state.^①

In turn, the CEDAW Committee submitted its recommendations which included a demand from the Jordanian government to activate the rights of women in the different areas that include the adoption of comprehensive laws to achieve gender equality, and to review the reservations to the Convention, and ratification of its' Optional Protocol, and to encourage measures aimed at changing the cultural stereotype of women, and to take measures to address all forms of violence against women and girls, including rape, and the preparation of educational and training programs for government officials on violence against women, and the creation of special shelters for women in urban and rural areas, and the development of counselling services, and strengthen measures to increase representation of women in public life, especially in leadership positions, and amending the labour law to prevent sexual harassment and discrimination, and reduce the incidence of early marriage.^②

At the national level too, the Council of Ministers approved on 20th January 2013 the National Strategy for Jordanian Women for the years 2013-2017, prepared by the Jordanian National Committee for Women's Affairs in collaboration with all stakeholders to women's rights. This strategy is aimed at strengthening the role of women in policy-making and

^① See Jordan's Fifth National Periodic Report to the CEDAW Committee, prepared by the Jordanian National Commission for Women in 2010, the report is available on <http://www.women.jo/admin/document/CEDAW%20English.pdf>.

^② CEDAW/C/JOR/5, *Consideration of reports submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women Fifth periodic report of States parties, Jordan*, September 24, 2010.

decision-making in the various themes and sectors which qualify for public participation in family, community and nation-building, and sustainable development in society with justice, equality and equal opportunities. This strategy is also focused on the political and economic empowerment of women and protection from violence (Mou'tamen, M., 2013: March 7).

However, in spite of all of the above from the national efforts, figures indicate that violence against women is still routinely practiced in Jordanian society. To measure the size of this phenomenon it is sufficient to access the numbers and statistics issued by the Family Protection Department, and the results of relevant research and studies, including the institutions of the National Council for Family Affairs, the Jordanian National Commission for Women, the National Centre for Human Rights, and the Ministry of Social Development and related civil society institutions, in addition to the comments of committees and the reports of experts who agree that women in all urban and rural areas in Jordan are not immune to domestic violence against them.

V. National Institutions for Protection against Domestic Violence

In the context of the best Jordanian efforts to provide protection from domestic violence, it must be noted that there are many different institutions and national bodies concerned with providing protection from domestic violence, in the forefront of which is the National Council for Family Affairs (NCFA). This council was founded under the Law of the National Council for Family Affairs No. (27) for the year 2001^①, to serve as an umbrella

^① The Law of the National Council for Family Affairs No. (27) for the year 2001 is published on page (2778) of the Official Gazette No. (4496), dated 16 July 2001.

supportive of coordinating and facilitating the work between partners from governmental and non-governmental organizations, international institutions, national institutions and the private sector working in the area of family, and to work together to achieve the best for the family of Jordan's future.^①

The Council also seeks to strengthen the Jordanian family status, and to maximize its role in society to enable families to contribute to the preservation of the cultural heritage and value system in line with the social and cultural changes in the Kingdom.^② The Council contributes to the work in order to ensure a better standard of living for Jordanian families through a national vision that supports the country's development policies and enables all Jordanian families to achieve their ambitions.^③

In order to achieve its strategic objectives, the Council is working on a national policy, legislation and procedures relating to the review and modification of family preparation, and it will guide scientific research and programs related to the family in Jordan and the promotion of national priorities.

One of the other tasks carried out by the National Council is the management of all information related to families of Jordan and submitting it to the relevant authorities in order for well-thought-out decisions to be made, based on the sponsor to ensure the continuity of progress and greatness of the family of Jordan, on scientific grounds. The Council also focuses on mobilizing national support for policies and programs to promote the family and the rights of family members, thus ensuring the establishment of a broad base of decision-makers who have the knowledge and expertise of the most important family issues. The

^① *The Law of the National Council for Family Affairs No. (27) for the year 2001, Article 6.*

^② *Ibid.*, Article 4.

^③ *Ibid.*, Article 6.

Council also works to provide financial support to ensure the continuity of family programs, and on the sustainability of coordination and follow-up applications and implementation of policies and strategies related to the family.^①

Another body related to protection of the family is the Family Protection Department against Violence in the Public Security Directorate of Jordanian institutions. The Public Security Directorate took the initiative in 1997 to develop management for special protection of the family, to be the first policewoman in management specializing in the Middle East to address the family and handle issues with cases of domestic violence and assaults nationally within the work-based confidentiality, privacy and participatory system with the competent authorities.

The establishment of this administration was the embodiment of the Royal vision of the need to pay the sectors of childhood and women adequate attention, and provide better services to them because of the great role of women and children in the community, and to activate the humanitarian and social role of the Public Security Directorate in the follow-up and treatment of domestic violence and sexual assault cases, in addition to the need to change interrogation techniques and interviews with victims of these issues and motivate them to progress to the bodies with their complaints, and finally to form this distinct Jordanian administration model in participatory work between the Directorate and a number of relevant government and non-governmental institutions (The National Council for Family Affairs, 2008: 24).

There is also the Jordanian National Commission for Women, which arose following a decision of the Council of Ministers in 1992 in order to raise public awareness of the importance of the role of women and the consolidation of their position in the

^① Ibid., Article 6.

progress of Jordanian society. The aim of this Commission is to work as an observatory and conduct a national analysis of the mechanisms that operate in the field of women and the pursuit of documented and institutionalized violence, and to monitor the status of women and their needs in accordance with national and international developments, and work on the application of international conventions and treaties ratified by the Jordanian government regarding women's rights, ensuring transparency in their application, and the development of systems and effective procedures to measure the extent of what has been implemented by national institutions in the context of achieving the objectives of the strategies, policies, plans, programs and projects concerned with the advancement of women (The National Council for Family Affairs, 2008: 25-26).

The Commission developed the first national strategy for women in 1993, in addition to the implementation of many women's studies to identify areas of concern and priorities for action. It has also been considered as the main reference for all the official authorities with regard to women's affairs and for all official authorities before making any decision or action. It was assigned to officially represent Jordan at the Fourth World Conference on Women in Beijing.

Another government agency that deals with domestic violence in Jordan is the Ministry of Social Development, which seeks to contribute to the development of social policy and implementation, and to promote cooperation between the public and private sectors to maximize the utilization of available resources and the organization of social work civil volunteers, and activate the provision of social services. The ministry also aims to achieve community justice through the advancement of social work development, and the development of comprehensive and

social policies, improving the quality of life of its members, and employment information and knowledge to provide excellent social services, as well as the consolidation of sustainable development based on the principles of accountability and a participative process.^①

To these ends, the Ministry of Social Affairs issued Law No. (14) for the year 1956,^② which stipulates that the ministry shall provide comprehensive social security, competence and productivity, and coordinate social services for all citizens in all stages of life, and the organization of their investment in the production of state resource.^③

Finally, there is the National Centre for Human Rights, which developed for the public interest as a national institution under Law No. (51) for the year 2006, to have financial and administrative independence in the exercise of all intellectual and political activities and events related to human rights.^④ The Centre aims at promoting the principles of human rights in the Kingdom inspired by the tolerant message of Islam, and of its Arab and Islamic heritage of values and the text of the Constitution of rights, as confirmed by international charters and conventions of principles.^⑤ The Centre also seeks to contribute to the consolidation of human rights principles in Jordan both in terms of thought and practice, and non-discrimination between citizens on grounds of race, language, religion and sex, and to promote a democratic approach to be a model for integration and

① *The Law of the Ministry of Social Affairs No. (14) for the year 1956, Article 3.*

② *The Law of the Ministry of Social Affairs No. (14) for the year 1956 is published on page (1367) of the Official Gazette No. (1265) dated 16 March 1956.*

③ *The Law of the Ministry of Social Affairs No. (14) for the year 1956, Article 4.*

④ *The Law of the National Centre for Human Rights No. (51) for the year 2006 is published on page (4026) of the Official Gazette No. (4787) dated 16 October 2006.*

⑤ *The Law of the National Centre for Human Rights No. (51) for the year 2006, Article 4.*

balance based on a climate of freedom, ensuring political pluralism and respect for the rule of law, while guaranteeing the right to economic, social and cultural development, and the pursuit of Jordan's accession to international conventions and agreements on human rights in general and women's rights in particular.^①

VI. The Jordanian Law for Protection against Domestic Violence

The Law Regarding Protection from Domestic Violence No. (6) for the year 2008 was passed in order to maintain family ties and reduce the effects of penal procedures to be followed on commission of a crime among family members, and replace sentences of imprisonment, where the law allows the Director of the Family Protection Department to take precautionary protection measures, when a defendant is pledged not to be given access to the victim or any member of the family, and in the event of a threat to the victim. The most important measure is not to allow the defendant to enter the family home for a period of not more than 48 hours, if there is no other way to ensure the protection of the victim or a family member.^② The law also gives those in charge the right to keep the defendant for a period not exceeding 24 hours in the Family Protection Department or one of its divisions, while ensuring protection of the victim or any of the members of the family if none of the previous procedures can be adopted.^③

Under the law, there has been the development of

^① Ibid., Article 5.

^② *The Law Regarding Protection from Domestic Violence No. (6) for the year 2008*, Article 11 (b).

^③ Ibid., Article 11 (2).

Committees of Family Reconciliation, which will make efforts for reconciliation between family members, and have the right to enlist the expertise and competence of any party.^① The law also commits all providers of health, social and educational services from the private and public sectors to inform the competent authorities in the event of a flag or seeing the effects of violence. The law also enjoins staff to take measures to ensure the protection of affected measures, and the protection of the person from domestic violence, and not to name or identify subject to legal liability except in the event of judicial proceedings.^② In the absence of an agreement between the two parties the case should be referred to the court, and at any agreed time to settle the dispute amicably and stop the prosecution of the defendant.^③

The law also gives the court the right to issue a protection order for a period not exceeding one month, requiring the defendant not to bother the victim or any of the family or to incite exposure to them.^④ The order would also prevent the defendant approaching the place of alternative accommodation, whether a safe place, nursing home or any other place mentioned in the protection order. This order might be renewed for six months in case of a violation by the defendant, or if the court is satisfied of the need to provide greater protection to the victim or any member of the family.^⑤

However, the Jordanian law includes many of the negative comments that are still obstacles to be considered as a means of prevention and deterrent to eliminate crimes of domestic violence, most importantly because it is devoid of any definition of domestic violence, which represents the end of its existence.

^① Ibid., Article 6.

^② Ibid., Article 10.

^③ Ibid., Article 12 (b).

^④ Ibid., Article 14 (a).

^⑤ Ibid., Article 14 (b).

Therefore, legislators began to revise procedural provisions and objectivity about the protection of domestic violence without putting in place a prohibitive and inclusive definition of what constitutes domestic violence, in the light of the application of penal provisions in the law.

Also, the Jordanian law does not address the issue of violence that may be experienced by women or a family member outside the family home, as it stipulated that in order to be considered domestic violence, it must be subject to the provision that it originates from a person who lives with family members in the same family home. The definition of family members is stated in Article (2) of the Act, namely that they are persons referred to in Article (3) of the Act who reside in the family home; and as identified in Article (3), members of the family for the purposes of this law are husband and wife under a legal marriage, and their children and grandchildren, and finally the children of a couple of legal marriage, the father and mother of either spouse, brothers and sisters of either spouse, or persons covered by the custody of foster parents who are not eighteen years of age. This approach would narrow the scope of domestic violence and limit it to violence against family members inside the family home. Any violence practiced elsewhere, outside the family home, is out of the framework of the law in spite of the federation of criminality.

The law does not address violence practiced against women or a family member of someone who does not reside with them in the same family home. If women are subject to violence by persons mentioned in the law outside the family home, or exposed to violence from those mentioned in the law inside the family home, such acts are not covered by the provisions of the law.

Furthermore, the Jordanian law ensures a departure from the general rules in the Code of Criminal Procedure governing the

powers of the judicial police and their competence, where the law permits the Director of the Family Protection Department to depart from the general rules and take quasi-judicial proceedings to close the complaint file and not to refer the matter to the competent court, or to prevent the defendant from entering the family home for a period not exceeding 24 hours. These powers must not be exercised by any non-judicial person or vested in any non-judicial point because they directly prejudice the rights of individuals, even including the aggressor, on the grounds that the accused is innocent until proven guilty of a judicially-defined offence, and therefore these powers must be exercised under the supervision and control of judicial powers.

In the area of regulation of the process of prosecution, the law stipulates the referral of the complaint to the Family Reconciliation Committees with the consent of all parties, and that in the case of disapproval the complaint can be turned over to the competent court. It is better to refer every case of domestic violence sentenced to the Family Reconciliation Committee without requiring the consent of the parties as a first stage before they are forwarded to the competent court. For cases of repeated violence and complaint against the defendant to be excluded, the case should be referred directly to the competent court.

The sanctions decided by the law in the event of non-compliance by the defendant order precautionary protection; non-deterrent penalties are limited to imprisonment for not more than one week, and in the case of violation of a protection order from the defendant, the sentence is deliberately limited to a fine of one hundred dinars, or imprisonment for a period not exceeding one month. Even in the case of repeated violation of the protection order, the penalty is imprisonment ranging from three days to six months, and a fine not exceeding two hundred dinars, and this also is a deterrent sanction.

The law on compensation to the victim may have been prompted by restrictions and controls to limit its value; the most important thing is the financial situation of the parties to the conflict and the impact of forcing the defendant to pay full compensation to the family situation, and expenses incurred as a result of protective measures. These factors are not related to the victim and should not be taken into account when assessing any compensation to him for domestic violence.

VII. Conclusion and Recommendations

The fight against violence against women is not an easy task which can be carried out to achieve tangible results in the short term, given the characteristics of the crime and the chances of impunity enjoyed by the perpetrators of violence.

Violence based on gender is also accepted and justified by the community as a form of male dominance over women, making it a difficult task to eliminate this phenomenon, so that in some cases violence against women is of crucial social mechanisms which impose on women a subordinate position to men.

The issue of impunity in cases of violence against women has been of paramount importance in the work of international and regional organizations, which stress the responsibility of the state in the fight against violence and to take all administrative, executive, judicial and legislative measures to ensure the elimination of violence against women. The framework of the international campaign that the Secretary General of the United Nations launched to eliminate violence against women and to put an end to impunity has been the demand of all countries, including Jordan, as has the development of a national strategy and action plan in partnership with all the actors to be enforceable

in application and measurement, to eliminate violence against women.

So Jordan is invited at this stage to assess the phenomenon of domestic violence on an objective and scientific basis, by building on the positive teamwork in a national context of collective, not individual, founders, as was the case formerly, in order to put an end to the growing phenomenon of domestic violence, before starting to think about finding mechanisms and solutions to eliminate the phenomenon, all through the development of national legislation and public policies primarily aimed to combat violence against women.

Despite the positive provisions in the Law Regarding Protection from Domestic Violence, the law is still marred by many negative points. Among the most important points overlooked are the definition of domestic violence, which represents the end of it, and not authorizing the judicial police of the Family Protection Department in quasi-judicial decisions and actions, which need specialist judicial supervision, and requiring approval by the conflicting parties to refer the dispute to the Committees of Family Reconciliation, and to give priority to reconciliation and consensus in the prosecution of the defendant, which raises doubts about the possibility of dropping the punishment, in addition to the ineffectiveness of the sanctions prescribed by law for public and private deterrence, and the content which constitutes a violation of the provisions of the aggrieved party's right to claim compensation.

In conclusion, the following set of recommendations and suggestions could be presented to be included in any review of the Law Regarding Protection from Domestic Violence, which are as follows:

1. Amend the law to ensure the activation of the content and spirit of the constitutional provisions that guarantee

non-discrimination between Jordanians and family welfare and young people, and in accordance with the general principles of international standards of human rights in general and women in particular, and include a definition. It should also manage to keep domestic violence under scrutiny and keep its provisions objective, most important of which is to oblige the Judicial Police and public security officers to move to the place of the occurrence of domestic violence. In this context it can be guided by the definition of domestic violence contained in the Declaration on the Elimination of Violence against Women adopted by the General Assembly of the United Nations on December 20, 1993.

2. Expand the scope of application of the law to include all aspects and forms of violence exercised by the designated members of the family-in-law towards each other, whether this violence occurs inside the family house or outside in any other place, such as a place of work, or in another house of any other family members, and ensure rapid and secret investigation of the offence of domestic violence, and to identify specific tasks and functions of the institutions designated to prosecute this offence, and not to expand the granting of discretionary powers in the event of a crime or to give priority to reconciliation or other forms of mediation.

3. Find more effective ways to protect victims of domestic violence at all stages of investigation and inquiry and research legislative measures, granting the public prosecutor the power to move the public interest litigation offence of domestic violence and not to arrest her on the provision of a complaint from the aggrieved, with the text on the need to complete the research procedures and judicial follow-up on actions punishable by law, even after the victim waives the complaint.

4. Create texts to ensure the protection of the rights of victims

of domestic violence, to listen to them and to provide witnesses and the defence and the evidence, which must be considered to benefit the complainant under oath, in a sufficient way to prove the assault for the purposes of issuing a protection order. There is also a need to provide protection for whistleblowers and witnesses from reprisals and violence, and to punish all partners or those intervening in acts of domestic violence in the same way as punishment is meted out to the original actor, and ensure parallelism between the punishment and the offence. There should also be abolition of any exceptions from punishment, or downgrading of punishment, increasing the penalty in case of repeated or growing domestic violence.

5. Provide shelters for battered women throughout the Kingdom, obliging the state to secure financial assistance and services for them, and not just issue a protection order not to enter the defendant's family home, and arrange dissuasive sanctions in case of violation. Provide women's police, trained to deal with victims of domestic violence, in addition to thinking about the establishment of family courts and a competent cadre of training staff to deal with this type of case, and provide special measures to protect the victim and their children so they are not subjected to violence, taking into account the best interests of the child.

6. Include legislative provisions to ensure continuous and accurate disclosure of numbers and statistics related to crimes of domestic violence for use in research studies, which are to address this phenomenon and limit its spread, and include preventive measures against domestic violence, the most important of which will take preventive measures to change stereotypes and the relevant social and cultural image, and any other ideas based on discrimination against women, or inconsistent with fundamental rights. The law should not include any contraindications concerning punishment or accountability based on customs,

traditions, social considerations or family.

7. Adopt a national strategic plan for the purpose of ensuring the implementation of the law, and to identify the institutional roles clearly in each of the institutions and relevant bodies, concerning crimes of domestic violence, including committees of family harmony, thus reducing the turmoil that the institutions concerned may suffer in this regard. The multiplicity of agencies that work to limit this crime will have a negative impact in the fight if there is no coordination of work between them. It should activate the role of civil society and involvement in the fight against domestic violence, and provide support for victims of domestic violence through all the trial proceedings and beyond, ensuring that the contribution of the media does not entrench stereotypes, but rather combats them, and strive to consolidate the values and the human rights system, and the rejection of violence against women.

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