



In Search of Justice: Rape laws in the Arab States

September 2025



A just world for all women and girls

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About Equality Now

Equality Now is an international human rights organisation founded in 1992 to protect and advance the rights of all women and girls around the world. Its campaigns focus on four programmatic areas: achieving legal equality, ending sexual violence, ending harmful practices, and ending sexual exploitation, with a cross-cutting focus on the unique needs of adolescent girls and other vulnerable groups.

Equality Now is a global organisation with partners all around the world. You'll find our 80+ team across the world in places such as Beirut, Johannesburg, London, Geneva, San José, New York, Nairobi, Tbilisi, and Washington DC, among many others.

Acknowledgments

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It takes a whole team to bring a report to fruition, and we thank all those at Equality Now for their commitment and contribution. We particularly recognise Equality Now's MENA programme team, Regional Representative Dima Dabbous and Gender Advisors Paleki Ayang and Naglaa Sarhan, whose dedication, coordination, and deep engagement with national and local contexts were instrumental in grounding this report in the lived realities of women and girls across the region.

We are further grateful to Equality Now's Global Thematic Lead on Sexual Violence, Jacqui Hunt, and Global Legal Advisors, Alexandra Patsalides and Keaton Allen-Gessesse, for their unwavering strategic guidance and legal expertise, which helped situate this work within the broader global movement to eliminate sexual violence and advance survivor-centred justice.

Foreword



Prof. Dr. Fadia Kiwan
Director General of the
Arab Women's Organization

Rape remains one of the most challenging topics confronting women and girls. Despite the fact that the majority of Arab countries have, in the last decade, enacted national legislation aimed at combatting all forms of violence against women and girls, particularly during times of war, armed conflict, and under occupation - rape continues to evade these legal frameworks, often taking on different forms and types.

This report does not seek to evaluate the effectiveness or enforcement of these laws. Rather, it highlights how rape often resists legal categorisation, especially when it comes to issues such as defining rape, determining the presence or absence of consent, or identifying coercion in sexual acts. This is further complicated by the fact that some legislators question the nature of coercion and argue that the victim may have enticed, seduced, or tempted her rapist. Marital rape remains one of the most contentious and neglected areas.

This report presents serious, evidence-based research into national legislation on rape across different Arab countries. It aims to provide readers with a comparative understanding of the legal landscape surrounding rape and sexual violence. By examining and contrasting legislative approaches, the report serves as a valuable tool for assessing progress in the protection of women from all forms of violence. Such comparative analysis also allows us to recognise both success stories and areas in need of improvement within the broader Arab region. This study's most significant added value lies in its grounding in what we refer to in the Arab world as our "historical cultural background" or "our cultural specificities". At the same time, it challenges the excuse often invoked by some to justify their failure to confront violence against women and girls or to take meaningful steps toward building robust legislative frameworks that serve as a cornerstone for their protection.

The Arab Women Organization is pleased to support the launch of this report because it believes in the value of sharing experiences and learning from successful models. We also see the review of existing legislation as a vital resource for legislators committed to advancing human rights.

The organisation also recognises that the most effective defense against violence, and the most impactful lever for cultural change, lies in transforming societal mindsets and attitudes toward women and girls. Raising awareness, educating, and empowering women and girls themselves is also a vital pathway to ensuring their protection.

We thank the "Equality Now" team for their tremendous effort in collecting and analysing the data and highlighting critical areas that support the development of strategies and programs to combat all forms of violence.

We consider this bold and original study a foundational contribution to the evolving Arab legislative structure, which continues to strengthen daily.

A handwritten signature in black ink that reads "Fadia Kiwan".

Prof. Dr. Fadia Kiwan
Director General of the Arab Women's Organization

Cairo: On June 1, 2025

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A note on terminology

This report focuses on the crime of rape as defined under international law, which refers to all acts of penetration, however slight, of a sexual nature with any bodily part or object, without the full and informed consent of the victim. This definition centres the lack of free, voluntary and willing consent rather than the use of force or violence. It covers engaging in non-consensual vaginal, anal or oral penetration of a sexual nature of the body of the victim/survivor by the perpetrator using any bodily part or object.¹

National laws of the member countries of the League of Arab States (LAS) covered in this report generally do not have a comprehensive definition of rape. The crime is commonly separated into two different categories:

- ◆ **Rape:** this generally refers only to vaginal penetration by the male sexual organ. National laws often use other terms to refer to this crime, including sexual intercourse without consent, or by force, or both.
- ◆ **Indecent Acts:** these refer to sexual acts other than a vaginal penetration by a penis which is referred to in the abovementioned definition of “rape”. Indecent acts cover a wide range of behaviours including penetration of a sexual nature (except of a vagina by a penis) of any bodily orifice by any bodily part or using an object without consent or with force or both which would ordinarily be included in the international standard of rape. The definition of “Indecent Acts” under the laws of LAS countries also covers sexual harassment and consensual touching in public, among others. Of all these “Indecent Acts”, this report covers only those that involve unwanted penetration and it uses the term Sexual Assault throughout to describe them.

Arabic terminology

In the penal codes, various terms are used to describe rape and sexual assault. These are:

- ◆ جامع/مجامعة/جماع and واقع/مواقعة دون رضى (non-consensual sexual intercourse)
- ◆ اعتداء على عرض شخص (assault on a person's honour)
- ◆ هتك عرض (violation of honour)
- ◆ فعل مناف للحشمة/مناف للحياء (indecent act)

These terms are culturally rooted and reflect a prioritisation of “honour” and public morality over the autonomy and dignity of the victim. This linguistic framing reinforces stigma and societal blame on survivors. The report focuses mainly on the crime of rape as included in the penal laws of the countries of the League of Arab States, while referencing other relevant laws, such as those addressing violence against women or domestic violence, when applicable.

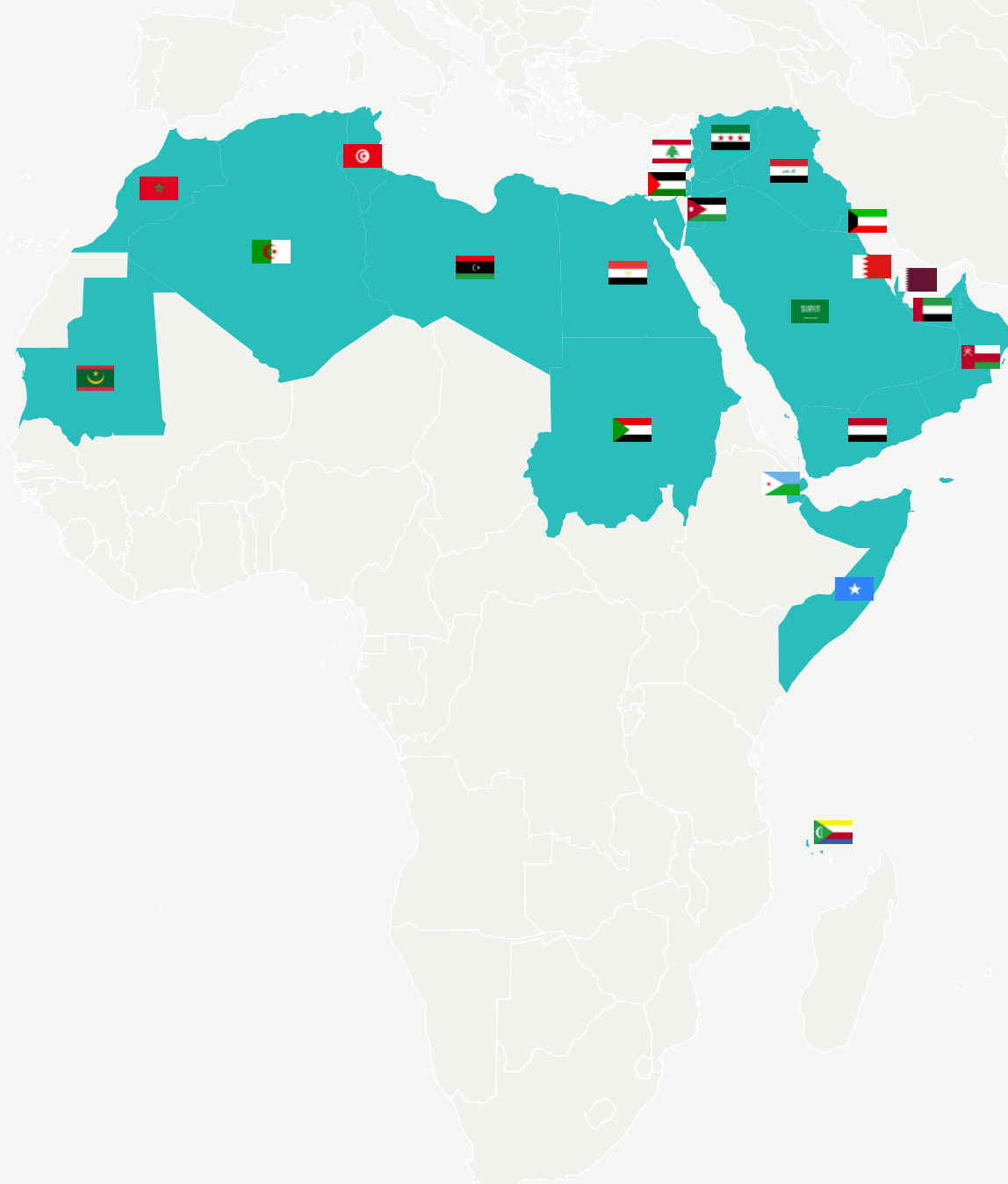
Chapter 1:

Context & methodology

1.1 Introduction

This report maps and analyses laws related to the crime of rape in the 22 States that are members of the League of Arab States (**LAS**). These are:

Algeria, Bahrain, Comoros, Djibouti, Egypt, Iraq, Jordan, Kuwait, Lebanon, Libya, Mauritania, Morocco, Oman, the State of Palestine, Qatar, Saudi Arabia, Somalia, Sudan, Syria, Tunisia, United Arab Emirates and Yemen.



Scope of the report

The main purpose of this report is to identify the extent to which laws in LAS countries comply with international human rights standards, with a particular reference to the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (**CEDAW**), and other relevant international human rights standards and jurisprudence, as well as the work of the UN's Special Rapporteur on violence against women and girls, its causes and consequences. The report advocates for legal and other evidence-based reform and action. It provides practical recommendations that may be useful for various governmental agencies and those charged with implementing justice.

In addition to the general report, two countries, Egypt and Lebanon, are highlighted to offer an illustration of how the legal provisions on rape are being implemented. A deeper look into these countries sheds further light on aspects of reporting rape and how the justice system responds, especially in relation to ensuring protection and access to justice to victims/survivors in these countries. They mostly serve to illustrate that it is not enough to amend legislation to protect women from the crime of rape, rather there is also a need to address systemic discrimination in how the law is implemented and any policy gaps.

These two countries were selected to exemplify how the justice system responds to rape cases in the context of broader discriminatory practices, procedural barriers and the stigma associated with reporting rape. It also acknowledges that practices, procedures and policies, which discriminate against women and girls and impede fair access to justice for victims/survivors of sexual violence, are also important to address to achieve real, systemic change and effective access to justice.

Sexual violence remains a taboo subject in the region and, consequently, it is under-researched, under-reported and rarely discussed.

Sexual violence remains a taboo subject in the region and, consequently, it is under-researched, under-reported and rarely discussed. These factors posed limitations in developing the breadth of this report. As such, the report presents a desk analysis focused primarily on the written legal definitions of rape laws in countries of the League of Arab States (LAS). Due to the limited available information, it does not, on the whole address, judicial interpretations or actual implementation. However, to better understand how the law is applied in practice, we conducted interviews with judicial experts and civil society organisations (CSOs) and offered some of their reflections in the text.

By providing a preliminary assessment of the sexual violence legal framework and identifying gaps, we hope the report will help lay the foundation for further research and analysis. We also hope it helps foster public dialogue and support for victims, as well as encourages greater CSO engagement and government prioritisation of measures to address sexual violence against women and girls.

The gendered nature of rape

Almost all laws in the LAS countries on rape assume a male perpetrator and a female victim/survivor and, even if not drafted explicitly this way, jurisprudence suggests this is how they are interpreted. Other forms of what under international standards would be regarded as rape, that is the non-consensual penetration of a sexual nature with objects or other body parts, are according to Equality Now's analysis of the LAS penal codes, generally included under the lesser crime of "sexual assault".²

Since such violence disproportionately affects women and girls, this report is written from that perspective. It is important that in the implementation of the law, criminal justice systems reflect and address the gendered nature of rape and adopt a gendered and victim-centred approach.

Men and boys also experience sexual violence during their lifetime which goes largely unreported and unexplored and which, together with prevailing patriarchal attitudes on male rape, often undermine their right to an effective remedy. It is key therefore to ensure rape laws protect all people equally regardless of their sex or gender orientation or identity.

1.2 Contents of the report

The report explores the following:

Chapter 1: Background - Provides an overview of the methodology used, the report's structure and the limitations faced during the report's development. The chapter then includes a brief socio-economic and political context of LAS countries.

Chapter 2: Legislative Framework - Offers the legal context of LAS countries, including a brief general overview of gender equality in the Constitutions and other laws of LAS countries, as well as brief background information on the role of religion and creed in influencing legislation as well as the application of international law.

Chapter 3: Laws related to the crime of rape - Analyses the definition of rape in national laws, particularly whether rape is defined in terms of lack of consent, as is required by international human rights standards, or defined in connection with the use of force and coercion. The analysis looks at whether national laws cover all perpetrators and all victims, including whether marital rape and incest are penalised. The report also discusses child marriage as a form of forced marriage which effectively provides State sanction for the rape of children. A review of the different forms of penalties for the crime of rape is also provided. Finally, aggravating factors as well as mitigation, including provisions that enable possible impunity, are discussed.

Chapter 4: Regional and International and human rights standards on rape - Provides an overview of international and regional human rights standards that relate to the crime of rape. Information is derived primarily from CEDAW and the CEDAW Committee's jurisprudence and expert opinions of other UN mechanisms. The report also examines the definition of rape under the Rome Statute of the International Criminal Court and relevant regional standards.

Chapter 5: Countries of additional focus: Egypt and Lebanon - Provides an illustration of how the legal provisions on rape are being implemented with examples from Egypt and Lebanon.

Chapter 6: Recommendations - Offers recommendations to LAS governments.

Annex: Definitions and Penalties for Rape and Sexual Assault - Gives a chart indicating the definitions of rape and corresponding penalties in the national laws of LAS members.

1.3 Methodology

The report includes an analysis of a number of legal texts in each country. These are: the penal codes of LAS countries and, where applicable and appropriate, laws which regulate violence against women and girls, including domestic violence, violence against children and family status laws. This allowed for an analysis of the written law only and did not enable insight into how the law is interpreted or practised. The report also relies on information available from official sources and civil society organisations working to address sexual violence, including those working directly with victims/survivors. This information includes studies, data collection, and interviews with legal experts. It was used to get a larger picture of the obstacles to achieving justice and some insights into how the law works in practice.

Country-specific observations and recommendations by the CEDAW Committee and other UN human rights mechanisms related to each LAS country were also reviewed and highlighted where appropriate.

In addition, the report considers the general views and recommendations of the CEDAW Committee and other relevant UN mechanisms with regard to the crime of rape in international law. Finally, two to three interviews were conducted with national experts in each of the two countries where a deeper focus was conducted. These interviews provided important context for the general analysis included in this report.

Limitations

It is important to highlight some limitations faced while drafting this report. While rape is a widespread abuse everywhere in the world, there is a dearth of detailed information about the extent and manner of the abuse in LAS countries, or how it is dealt with in criminal justice processes. In general terms, the stigma of and blame for rape globally fall commonly on the victim/survivor such that it creates cycles of silence and re-victimisation. This is also true in LAS countries, where societal norms and legal frameworks often criminalise consensual sexual relations outside marriage, further complicating discussions on sexual violence. However, the work undertaken by civil society organisations is starting to bear fruit in that some media coverage, for example in Lebanon, is now more centred on highlighting the perspective of sexual violence victims.³

The specific obstacles to gaining more insight into rape for the purposes of this report include:

- ◆ **Limited legal studies** on rape in LAS countries, including in terms of the availability of statistical data, analysis of jurisprudence, laws and practices. This has resulted in some limitations in being able

to fully comprehend the manner in which laws are being implemented in practice and the challenges that are being faced with respect to ensuring access to justice for survivors of sexual violence.⁴

- ◆ **Limited engagement on sexual violence with UN human rights mechanisms:** Engagement of LAS countries with UN human rights mechanisms (both treaty bodies and special procedures) is steadily improving.⁵ However, there is little availability of recent information with respect to sexual violence from States through their own State Party reports, as well as in alternative reports from civil society organisations, and consequently few specific recommendations and guidance by treaty bodies on rape laws and criminal justice practices.⁶ In addition, only just under half of LAS countries have issued standing invitations to UN special procedures.⁷ Therefore, there are few country-specific findings and recommendations by treaty bodies or relevant special procedures following country visits.

Despite the above limitations, this report should provide a much-needed basis to open more discussions on rape and how to address it holistically within the LAS countries.

1.4 Socio-economic and political context and its impact

Socio-economic and political factors significantly influence reform efforts in LAS countries. These factors also impact the effectiveness of law enforcement and the pace at which discriminatory practices change. Whatever the obstacles, States have the due diligence responsibility under international law, as well as any provisions in their national laws that promote equality and an end to discrimination, to ensure that law and practice prevent and address abuse of rights⁸. This includes effective accountability for rape and sexual violence.

The UN Economic and Social Commission for Western Asia (ESCWA) stresses that the crises affecting LAS countries are complex and protracted, especially because they are influenced by various factors. It concludes that “[E]xtreme wealth and extreme poverty coexist in the Arab region, along with the highest income inequality in the world. Women, young persons, older persons, people with disabilities and rural populations are all at risk of being socially and economically excluded. There are also vast differences in access to services, resources, opportunities and benefits from socioeconomic development.”⁹

Political and socio-economic circumstances in the region make it difficult to prioritise and advance the gender equality agenda and are sometimes used as excuses by officials and conservatives in society to delay legislative reform on gender equality and the rights of women and girls.¹⁰ Within this context of structural inequality and particular vulnerability, legislative and policy reform to address sexual violence are all the more pressing.

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Inherently weak state institutions also tend to become weaker or may even collapse before, during and after conflict and are unable to secure victims’/survivors’ access to justice or address any increase in politically driven or opportunistic sexual violence.

The United Nations Economic and Social Commission for Western Asia (ESCWA) also notes that these challenging circumstances in the region are “exacerbated by ongoing conflicts and their widespread consequences on people, society and institutions”¹¹. Women and girls are disproportionately affected by conflict, facing increased risks of gender-based violence (GBV), particularly sexual violence, before, during and after periods of unrest. Evidence from conflict-affected settings globally indicates that sexual violence escalates during armed conflicts, often being used as a tool of war, coercion, or political repression. Women and girls are frequently targeted due to their sex, facing violations that are opportunistic, systematic, or politically motivated. Inherently weak state institutions also tend to become weaker or may even collapse before, during and after conflict and are unable to secure victims’/survivors’ access to justice or address any increase in politically driven or opportunistic sexual violence.¹² Access to justice may be effectively denied with the collapse of the justice system and other State institutions that support it. Access to essential health services, including sexual and reproductive health services, is often also disrupted.

Armed conflicts and political instability are also resulting in the emergence and/or continuation of harmful practices including early school drop-outs, female genital mutilation (FGM)¹³ and forced and child marriage. This is particularly witnessed in Iraq, Sudan, Syria, Yemen and Gaza.¹⁴ Apart from rape within marriage often not being recognised as such in the law, rape of girls not old enough to give consent that might otherwise be punished in law is overlooked or permitted once marriage takes place.

Another significant challenge witnessed in several LAS countries in the last few years, and which continues to escalate, is an anti-feminist and anti-gender equality backlash, questioning women's empowerment and the use of CEDAW as a framework for advocating for gender equality. Women's rights defenders and members of their families are particularly vulnerable, with their activities frequently severely curtailed and they themselves often threatened with violence, sometimes physically attacked or even killed. They regularly face smear campaigns by conservative, religious and some tribal elements in their societies or even some of the State's apparatus, accusing them of importing "Western values not suitable for the values of Arab countries".¹⁵ Additionally, States are often silent about such threats, failing to protect women human rights defenders, thus enabling such attacks against the gender equality movement and allowing perpetrators to operate with impunity.

Victims/survivors are treated as persons who bring shame onto their families, clans, tribes and societies, instead of being regarded as victims/survivors of crimes.

Another significant challenge witnessed in several LAS countries in the last few years is an anti-feminist and anti-gender equality backlash.

Prevalent social norms place a high value on the chastity of women. Generally, LAS countries tend to categorise sexual violence crimes as crimes against 'morals' (الأخلاق) and/or 'honour' (الشرف) and/or 'public decency' (الآداب العامة). This means that these crimes are regarded as crimes against the 'honour' of the family, clan or society and not as crimes against personal bodily integrity and sexual autonomy.¹⁶

One of the negative implications of this categorisation is that victims/survivors are treated as persons who bring shame onto their families, clans, tribes, and societies, instead of being regarded as victims/survivors of crimes against them, who should be treated as such and should be supported. Recently, however, there has been more public discussion about sexual violence in some countries and stronger calls to address it from a victim-centred approach.¹⁷



Chapter 2:

Legislative framework

2.1 Legal influences in LAS countries

The legislative frameworks in many LAS countries are influenced by laws applicable during Ottoman rule, followed by legal systems of the British and French mandates, where applicable. Most national legal systems in LAS countries are a combination of laws derived from each country's colonial period, national laws and legal amendments adopted after colonialism, religious laws and customary laws.¹⁸

Shari'a law is considered to have an important influence on the development of penal codes in several LAS countries, which justify their reservations to some CEDAW articles on the basis that these Articles contradict Shari'a. The laws of some LAS countries also acknowledge certain customary practices as a source of interpretation of legislation. In these cases, if the provisions are not clear to judges about how the legislation or standards should be implemented and interpreted, they then may (depending on the national context) seek guidance from Shari'a, custom (عرف), natural law¹⁹ (القانون الطبيعي) and the rules of justice, according to the laws in most of these countries. For example, where customs are not recognised as a source of legislation according to the Constitution, civil law in some countries expressly allows judges to use customs/customary law to make decisions or interpret legislation in cases where specific provisions in the law lack clarity or in case of ambiguity.²⁰ In some countries, such as Somalia and Sudan, customary legal systems also apply as a parallel system in practice. In Sudan, customary law is most prevalent in rural and tribal communities and typically covers matters related to family law. In these countries, justice is provided not only by the formal system but also by the informal system, which applies a mixture of unwritten laws, in particular a mixture of customary law and interpretations of Islam. Customary law is however not formally recognised in the Constitutions of either of the two countries.²¹

Drawing on customs and/or 'natural law' for interpreting legislation may be a major threat to the promotion of gender equality for women and girls, as these customs and interpretations in some localised contexts tend to be conservative and might not recognise all women's rights as provided by the international standards officially accepted by each of these countries. The fact that they are not written down also means they may vary from one part of the country to another and may be interpreted differently from one judge to another, which gives rise to further concerns about accountability and whether victims/survivors can secure justice.

In several countries, some laws may not apply equally to all citizens (including women) within the same country. In Iraq²² and Palestine²³ different laws, including penal laws, apply in different geographical parts of the country. In Lebanon, Syria, Bahrain, Egypt, Sudan, Iraq and Palestine, different family status laws apply to different women within the same country, depending on their religion or sect. Family status laws usually regulate matters related to the age of marriage, consent to marriage, rights during marriage and upon its dissolution, family relations, division of and access to matrimonial assets and custody over children, among others. These are critical issues linked to rape and other sexual violence offences, including in connection with forced and child marriage and the ability of women to freely consent to sexual relations during marriage. Family status laws can therefore impact the ability and real choice of women to escape physically and sexually abusive relationships for fear of not getting custody over their children or of being pushed into economic destitution because of a lack of equal access to assets during marriage and upon its dissolution.

The CEDAW Committee has repeatedly raised concerns over the multiplicity of these laws and how they perpetuate certain forms of discrimination among and between women from the same country. In the case of Lebanon, for example, the CEDAW Committee expressed concern that “the multiplicity of personal status laws in the State party, on account of its religious diversity, is resulting in discrimination against women within their own sects and

inequality between women belonging to different sects in key aspects of their lives, including marriage, divorce and custody of children.”²⁴

This is notwithstanding that all LAS countries make clear in their Constitutions that citizens are equal before the law.²⁵ In addition, some countries reference women’s rights directly in the Constitution.²⁶



2.2 The link between religion and legislation

Religion is influential in developing and interpreting legislation in LAS countries, although this influence varies widely in the region. With respect to sexual violence, what kind of interpretation of Islamic Shari'a is dominant in a given society and what specific interpretations of Shari'a are used to support both women and the justice sector, will be key in better understanding pathways or obstacles to justice. This poses the question of how religion is in practice being interpreted by men (who almost exclusively are the judges) from predominantly conservative societies, often holding negative stereotypes and myths regarding women's traditional role.

- ◆ The Basic Law of Governance of **Saudi Arabia** makes clear that Islamic Shari'a is the foundation of legislation in the country. The Provisional Constitution of **Somalia** of 2012, as reviewed up to 2016, states that any law which is not compliant with the general principles of Shari'a may not be enacted. The Constitution of **Yemen** states that Islamic Shari'a is the source of all legislation.
- ◆ Some countries, for example, **Egypt, Libya and Oman**, identify Islam or principles of Islamic Shari'a as the main/principal source of legislation. **Mauritania** indicates this in the Preamble of its Constitution. In these countries, Islamic Shari'a is the only recognised source of legislation, but this does not mean that Islamic Shari'a is used as a basis for all laws. For example, it may be used as a basis for family status laws and in defining some crimes. However, it may not be reflected in all aspects of criminal punishments as prescribed in the penal laws.
- ◆ Other countries, notably **Bahrain, Palestine, Kuwait, Qatar, Syria** and the **United Arab Emirates**, identify Islam or principles of Islamic Shari'a as a main/principal source of legislation. In practical terms, this means that Islamic Shari'a is one of the sources of legislation, but not the only one, although these other sources are normally not defined specifically in the Constitutions.
- ◆ The Constitution of **Iraq** provides that Islam is the official religion of the State and is a foundational source of legislation, further stipulating that no law may be enacted that contradicts the established provisions of Islam.
- ◆ In other States, there is no link between Shari'a law and national legislation, according to the Constitution of the country. For example, in **Algeria, Comoros, Djibouti, Jordan and Morocco**, Islam is the religion of the State, but the Constitution does not link it with legislation.
- ◆ In 2022, the new Tunisian Constitution, which revoked the 2014 Constitution, asserted that **Tunisia** is part of the Islamic Umma²⁷ and it is incumbent on the State to achieve the purposes of Islam in preserving the soul, honour, property, religion and freedom. However, there is no reference to Islamic Shari'a as a source of legislation.
- ◆ The Constitution of **Lebanon** makes reference to monotheistic religions in Article 9, but it does not recognise any specific religion as the religion of the State or as the/a foundation or source of legislation.
- ◆ The Constitution of **Syria** specifies that "[t]he religion of the President of the Republic is Islam" (Article 3). There is no other reference to religion²⁸.

2.3 Commitments to international law

Most countries in the region have ratified a number of UN treaties²⁹. For example, twenty out of the twenty-two LAS countries are parties to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). Only Somalia and Sudan are not States Parties. All LAS countries that have ratified or acceded to CEDAW have done so with reservations, except for Comoros, Djibouti and the State of Palestine.^{30 31} In the last few years, there has been some progress in this regard, with a number of LAS countries lifting some reservations. Morocco and Tunisia for example lifted their reservations to Article 16, regarding eliminating discrimination against women in all matters relating to marriage and family relations, which includes issues such as domestic violence, including marital rape. A number of States also withdrew their reservations to Article 9 concerning nationality, especially to reflect changes in national legislation recognising the right of a woman to pass her nationality to her children.³² Ensuring equality in nationality laws would help provide children with stability and also offer more protection to girls who are vulnerable to being married off early and being exposed to sexual violence. Ensuring equality in nationality laws is also crucial for protecting women and children, as it guarantees access to other rights such as education, healthcare, and legal protection. Nationality is key to breaking cycles of vulnerability and securing their rights.

In addition, all countries have ratified the Convention on the Rights of the Child, the Convention on the Rights of Persons with Disabilities, the International Covenant on Civil and Political Rights (except Saudi Arabia and Oman), and the International Covenant on Economic, Social and Cultural Rights (except Saudi Arabia), to name some of the remaining UN core treaties.

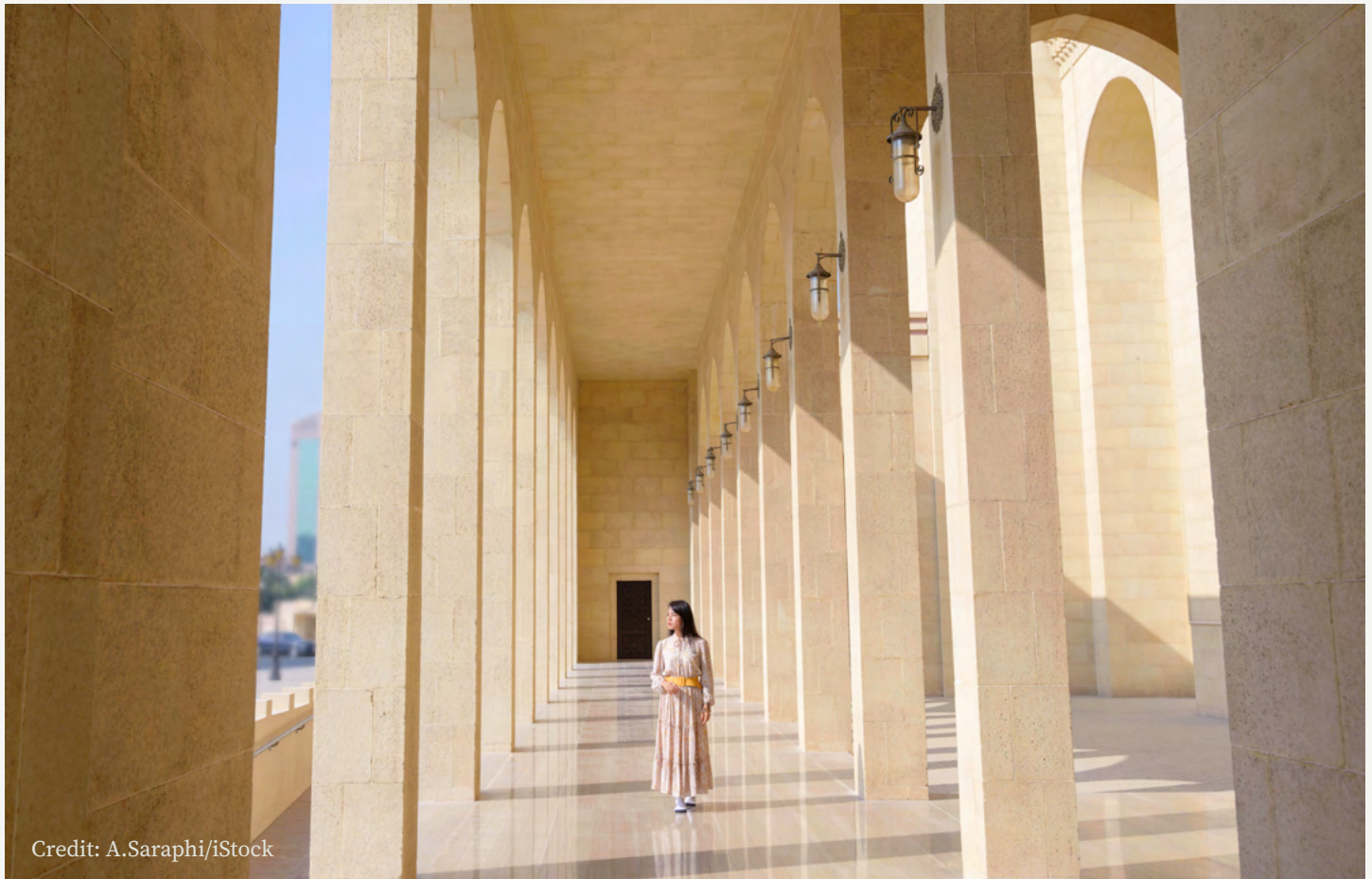
Lack of clarity with respect to the hierarchy of laws risks leading to conflicts arising between domestic legislation and international treaties and a potential weakening of human rights protections.

2.3.1 Relation between international treaties and national legislation

Once an international treaty is ratified, it either becomes directly applicable in a country or a separate legislative act needs to be passed or a formal procedure followed to enable incorporation of its obligations into national law. In some cases, the Constitution or Basic Law of the country clarifies the relation between national legislation and international treaties, articulating which has supremacy. In other cases, where this is not clear in the Constitution, the highest judicial authority of the land, or sometimes other legislation (for example the Administrative Law), can clarify the matter. Provisions in Constitutions that state that no international treaties contrary to the Constitution may be ratified have been interpreted to mean that Constitutions have supremacy over international treaties. Lack of clarity with respect to the hierarchy of laws risks leading to conflicts arising between domestic legislation and international treaties and a potential weakening of human rights protections.

Access to justice is essential for ensuring protection from rape and other sexual violence crimes as well as for effectively punishing perpetrators. The Committee overseeing compliance with CEDAW observes that, in practice, States Parties that have adopted constitutional guarantees relating to substantive equality between men and women and incorporated international human rights law, including CEDAW, into their national legal system are better equipped to secure sex equality in access to justice.³³ The CEDAW Committee stresses that this includes taking measures to ensure the realisation of equality between women and men in all areas of public and private life as well as in all fields of law. The Committee recommends the following to the States Parties:

- a) *“Provide explicit constitutional protection for formal and substantive equality and for non-discrimination in the public and private spheres, including with regard to all matters of personal status, family, marriage and inheritance law and across all areas of law;*
- b) *When provisions of international law do not directly apply, fully incorporate international human rights law into their constitutional and legislative frameworks in order to effectively guarantee women’s access to justice.”³⁴*



Credit: A.Saraphi/iStock

2.4 Laws on violence against women

The majority of the laws on violence against women among LAS states focus on violence in family/domestic settings only. These are the laws of **Bahrain, Comoros, Jordan, the Kurdistan Region of Iraq, Kuwait, Lebanon, Saudi Arabia and the United Arab Emirates**. Only **Morocco** and **Tunisia** have laws that cover violence in both the private and public spheres.

By contrast, **Algeria, Egypt, Iraq, Libya, Mauritania, Oman, Palestine, Qatar, Somalia, Sudan, Syria** and **Yemen** do not have any special laws on violence against women. **Djibouti** has a law on violence against women, which focuses mainly on female genital mutilation (FGM) and not on violence against women more broadly.

Most of the specific laws on violence against women include sexual violence as part of the definition of violence, including laws that focus on domestic violence. This increases the possibilities of protection against intimate partner violence. For example, Lebanon Law No. 293 of 2014: Protection of Women and other Members of the Family from Domestic Violence³⁵ penalises only physical violence and not directly sexual violence.

Lebanese law still maintains the spousal right to sex. However if, in order to fulfil his marital right to sexual intercourse, or in the course of sexual intercourse with his wife, the husband threatens or beats his wife, he can be held accountable under law 293. This could help address related violent behaviours in marriage. The Law on Domestic Violence in Jordan,³⁶ by contrast, does not specify the types of violence covered by the law, so theoretically could include sexual violence. At the same time, the penal code in Jordan excludes a wife from protection against sexual violence by her husband, effectively giving him impunity for rape in marriage.

In addition to specific laws on violence, which are important to set standards and potentially influence social norms of what is unacceptable behaviour, as well as allowing victims/survivors a route to accountability and recourse, LAS countries have also adopted specific strategies on violence against women. These largely focus on prevention through awareness-raising and training led by local women's rights organisations and play an important complementary role to the legal framework.

Chapter 3:

Laws related to the crime of rape

3.1 Definition

Acts of sexual violence constituting rape are not comprehensively criminalised in LAS countries in accordance with international human rights standards. The crime of rape is not defined clearly in the vast majority of laws of the LAS countries studied, nor does it generally cover the full scope of the crime. This lack of clarity and careful scrutiny of the offence has a detrimental impact on the ability of victims/survivors of rape to access justice, to hold perpetrators accountable and to receive the necessary support and protection.

Unclear definitions

The penal codes of the majority of LAS countries reviewed in this report, with a few exceptions, criminalise sexual violence based on two distinct legal classifications:

- **Rape:**³⁷ This act of sexual violence is mostly defined narrowly, referring only to vaginal penetration by the male sexual organ. Some national laws use alternative terminology, such as "sexual intercourse without consent", "sexual intercourse by force", or both. However, these definitions often exclude other forms of non-consensual penetration, thereby limiting the scope of what is legally recognised as rape.

- **Indecent Acts/Sexual Assault:**³⁸ Indecent Acts refer to sexual acts beyond vaginal penetration by a penis (which is defined above as rape). While this legal category in LAS countries includes broader sexual crimes such as harassment and consensual public touching (among other things), this report focuses specifically on non-consensual penetrative acts of a sexual nature -- where any bodily orifice is penetrated by any body part or object -- because these acts constitute rape under international standards.

For clarity, we use the term "**Sexual Assault**" throughout this report to refer to these non-consensual penetrative acts, distinguishing them from other sexual crimes classified as Indecent Acts under the laws of LAS countries.

This legal distinction creates a hierarchy of sexual offences, where sexual assaults involving non-vaginal penetration that meet the international definition of rape are often categorised as lesser offences under national laws and, as a result, frequently carry significantly lighter penalties than those classified as rape. This discrepancy contributes to the misunderstanding and under-prosecution of many acts of sexual violence, fostering an environment of impunity for perpetrators and further marginalising victims/survivors.

The crime of rape is not defined clearly in the vast majority of laws of the LAS countries studied, nor does it generally cover the full scope of the crime.

Lack of consent and use of force

In LAS countries, the legal definition of rape varies.

Several countries, such as Jordan, Kuwait, Morocco, Palestine (Gaza Strip) and Tunisia, include both lack of consent and use of force in their legal definitions for rape and sexual assault.³⁹ Conversely, countries such as Bahrain and Egypt refer to consent only in the context of rape, but omit it from definitions of sexual assault. Additionally, some LAS countries, including Djibouti, Lebanon, Libya, Palestine (West Bank), Somalia,⁴⁰ Sudan and Syria, define rape solely based on the use of force, without explicit reference to consent. Key informants have suggested that, whatever the definition, law enforcement and judicial authorities have a tendency to limit their focus primarily to evidence of force, physical resistance and/or visible physical injuries.

This legal distinction creates a hierarchy of sexual offences, where sexual assaults involving non-vaginal penetration that meet the international definition of rape are often categorised as lesser offences under national laws and, as a result, frequently carry significantly lighter penalties than those classified as rape.

No LAS country, however, has a law that comprehensively reflects a broad range of circumstances where exploiting a position of vulnerability, trust, influence and dependence could negate consent.

There is some recognition in several laws of circumstances or situations which make it particularly difficult for a victim/survivor to give free consent. This may be because of the position of authority or power of the perpetrator, which is often dealt with separately under the section on penalties/aggravated circumstances. A number of positions of dependence and vulnerability are included in the laws of the LAS countries as aggravating factors (see section on aggravating factors). No LAS country, however, has a law that comprehensively reflects a broad range of circumstances where exploiting a position of vulnerability, trust, influence and dependence could negate consent. Such examples might include teacher and student; care provider and patient; coach and athlete; boss and employee; religious figures and their constituents; family member and dependent family member.

In addition, a number of laws specifically exclude marital rape from the scope of criminal offences, which is based on the assumption that a wife should always be willing to engage in a sexual relationship with her husband.⁴¹ This negates the concept of bodily autonomy and integrity and could allow sexual violence in marriage to continue unpunished. It is also in contradiction with some of the existing laws on domestic violence that suggest that this control by a husband is not total, as wife beating (and violence exercised by the husband to obtain or engage in sexual intercourse) are against the law in those countries.

3.2 Challenges in legal interpretation and implementation

Evidentiary burdens in law and practice

In legal systems where rape is defined as requiring the use of force, the burden is commonly in practice put on the victims/survivors themselves to offer physical evidence, such as bruises, to demonstrate that the perpetrator exercised force/physical violence. Many victims/survivors are also expected to demonstrate that they made active efforts to resist the perpetrator.

There are cases where victims/survivors do not immediately report their experience and this occurs for a number of reasons, including shock, fear of retaliation, societal stigma, or shame.

They are also expected to report the incident of rape within a narrow timeframe (usually no later than 72 hours) after the event when forensic evidence is most likely still available⁴². However, there are cases where victims/survivors do not immediately report their experience and this occurs for a number of reasons, including shock, fear of retaliation, societal stigma, or shame. If victims/survivors report after a period of time has lapsed, they may face being accused of making false allegations, especially given that any physical evidence of the assault may no longer exist:

“The psychological violation starts at the police station, where she [victim/survivor] repeats her story multiple times. The prosecution often asks prejudiced questions based on societal assumptions.” Lawyer from Egypt.

“Victims come bearing a huge burden...and often regret initiating legal action...People have lost faith in legal reform or the justice system, especially for sensitive cases where women feel they must sacrifice their privacy and endure significant challenges.” Lawyer from Egypt.

Even when the definition of rape is based on consent, in some countries, such as Egypt,⁴³ victims/survivors may still be required to undergo forensic testing. This is often done to establish that a sexual act occurred, typically through evidence of penetration or ejaculation by the male offender, and to assess whether force was used: *“It is almost impossible to refer a case to trial for a rape crime without a forensic report. And even if - hypothetically - the prosecution office referred the case to court without a forensic report, the court will require it in any case.”* Judge from Egypt

Such practices persist even when no explicit evidentiary requirement exists in the law. This approach undermines the consent-based definition of rape by prioritising physical signs of violence and disregarding other coercive or manipulative means through which sexual violence can occur.

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Structural failures in evidence collection and prosecution

Allegations of rape are often not investigated with rigour or procedural diligence. Victims/survivors may face significant challenges accessing timely and comprehensive investigative support. This diverges from standard procedures in other criminal investigations, where law enforcement agencies typically lead in evidence collection. In cases where survivors do not report immediately, do not retain physical evidence such as clothing, or are unable to undergo medical or forensic examinations within a short time frame, proving the case can become exceptionally difficult.⁴⁴ With the disproportionate focus on forensic evidence only, delay in reporting by victims/survivors due to fear of retaliation by the perpetrator, lack of awareness, fear of bringing shame to themselves or their family, stigmatisation, lack of support by family or friends and any other such reasons, victims/survivors will unlikely receive justice and historical cases of rape, including those perpetrated against minors, will remain unpunished.⁴⁵

There are few processes in place to train law enforcement in the collection and evaluation of evidence, in addressing negative stereotypes and providing victim-centred processes and spaces, all to allow for a more conducive environment for successful prosecutions and, ultimately, for justice.

While some civil society organisations conduct awareness-raising campaigns around the issue of rape, LAS States generally make minimal effort to raise awareness of the issue, including the importance of filing a complaint and to underscore that they will deal with rape seriously. There are few processes in place to train law enforcement in the collection and evaluation of evidence, in addressing negative stereotypes and providing victim-centred processes and spaces, all to allow for a more conducive environment for successful prosecutions and, ultimately, for justice.

This systemic failure contributes to low prosecution rates, perpetuates a culture of impunity and deters future reporting by victims/survivors. A more conducive environment, which is victim-centred, suspect-focused and context-led, is essential not only for achieving justice but also for acting as a deterrent against future crimes.

Forensic examination requirements and misuse

The process of undergoing forensic examination is often deeply traumatic for survivors. Police frequently fail to inform victims about how to preserve evidence and the procedure to follow with respect to examinations. Survivors are denied emotional support, legal accompaniment, or privacy during these procedures.⁴⁶

Forensic testing is often carried out in an intrusive manner that does not meet international health protocols and standards. This further contributes to the hesitation of victims/survivors to file complaints:⁴⁷

“It’s usually a terrible experience. Police don’t inform victims to preserve their clothing as evidence and most officers are men. The medical examination process can also be invasive and distressing. Psychological support is missing entirely from the process.” Lawyer from Egypt

“In some cases, when forensic doctors examine the victim, there are two problems that arise: First, they prevent anyone from being with her—even though the law permits accompaniment. Second, the examination can be humiliating, especially if doctors judge the victim’s morality and go beyond what the investigation requires [such as performing unnecessary anal examinations].” Lawyer from Egypt

Virginity testing and the misuse of medical evidence

Virginity testing, an invasive and scientifically debunked practice, continues to be carried out in some jurisdictions under the pretext of validating the survivor's claims. Survivors are often pressured to assert their virginity to gain credibility, yet this can be used against them if the medical report appears to contradict their statement.

Medical evidence of previous sexual activity is commonly used around the world to cast doubt on the rape allegation, either to suggest a survivor lied about the rape, that the victim/survivor did not suffer any harm because she was 'habituated to sex', or to suggest the moral impropriety of the victim/survivor and therefore her lack of entitlement to justice. Moreover, if the hymen is still intact, it is often wrongly assumed that rape could not have occurred despite widespread medical consensus that an intact hymen is not probative in rape cases. The persistence of these misconceptions and prejudices undermines the pursuit of justice and reinforces societal stigma against victims/survivors:

"...even though virginity has no legal bearing, some victims may feel pressured to claim virginity for respect, which can backfire legally..." Lawyer from Egypt

"In the event that there was no use of force or violence and the victim was not a virgin, but claimed she was, the defence may argue that the act was consensual. [For judges in Egypt] the forensics determine whether she was a virgin based on the investigation's request." Judge from Egypt

Victims/survivors who claim virginity are then subjected to virginity testing. Virginity, particularly virginity prior to a rape, cannot be scientifically proven with a test.⁴⁸ The belief that it can and reliance on a forensic examination that purports to show whether the complainant had been a virgin or not prior to the alleged rape should have no place in a criminal justice system. This practice also creates additional barriers to justice and reinforces harmful societal notions around sexuality and consent as well as perpetuates a justice system more focused on morality than on violations of consent and bodily integrity.

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Credit: Oleh_Slobodeniuk/iStock

Questions that focus on the absence of consent are typically neglected, even in cases where the legal definition of rape explicitly hinges on consent. This disconnect between legal definitions and investigative practices contributes to a systemic failure to uphold victims' rights and to achieve justice.

Discriminatory stereotypes

Various forms of prejudice and gender-based stereotypes significantly influence legal procedures and practices in LAS countries. These biases affect all stages of the justice process, from investigation to prosecution and adjudication.⁴⁹

In the event that a case has been reported, including when referred to the court, prosecutors, investigators and judges often disproportionately focus on the personality and behaviour of the victim/survivor and make assumptions as to the likelihood of a crime having been committed on the basis of their own prejudices and perceived morality or expected behaviour of the victim/survivor.⁵⁰ In some cases victims/survivors are often themselves implicitly blamed for being raped, including by being asked questions about what clothes they were wearing and the reasons they were in the same place as the perpetrator, whether or not they were drinking, being at a party or having extra marital relationships. Questions that focus on the absence of consent are typically neglected, even in cases where the legal definition of rape explicitly hinges on consent. This disconnect between legal definitions and investigative practices contributes to a systemic failure to uphold victims' rights and to achieve justice:

“In general, we need a trained cadre to deal with such gender-sensitive cases among all officials in the access to justice process...: the police - forensics department - prosecution office - court.” Lawyer from Egypt



3.3 Penalties

There are several factors that affect the penalties imposed for rape in the penal laws of LAS countries, contributing to significant inconsistencies and gaps in being able to access justice. These include the following elements:

- ◆ **Disparities in penalties for rape and sexual assault:** Legal frameworks often differentiate between rape and sexual assault, with the latter receiving considerably lighter sentences, even when the acts would amount to rape under international standards.
- ◆ **Mitigating circumstances protecting perpetrators:** Some legal systems provide reduced sentences or impunity for perpetrators who claim justification for committing the crime of murder against a female family member, victim of rape, under the guise of protecting family 'honour'. This is distinct from exoneration laws that absolve perpetrators/rapists if they marry their victims, although both reflect systemic legal loopholes that undermine justice for survivors.
- ◆ **Aggravating factors:** Sentencing may vary based on the nature or identity of the perpetrator and the victim/survivor, although this is inconsistently applied across countries.

While there is no absolute standard of punishment for rape in international law, punishment should be set commensurate with the gravity of the offence,⁵¹ which would also serve to promote a normative value about the seriousness of the offence.

Legal frameworks often differentiate between rape and sexual assault, with the latter receiving considerably lighter sentences, even when the acts would amount to rape under international standards.

Punishments for sexual assault compared to rape

- ◆ Punishment for sexual assault is generally much lower than that prescribed in the law for the crime of rape (defined as sexual intercourse by penile penetration of the vagina without consent or with force or both). The difference in the punishment for these acts is quite significant in some countries. More research needs to be done to understand what common punishments, if any, are given for sexual assaults that would, under international standards, amount to rape, as opposed to other forms of sexual violence, for example sexual harassment. In any case, the law should not support a hierarchy of rape and should punish rape appropriately, in a way that is commensurate with the seriousness of the crime (see Annex 1 which includes details of punishments for sexual assault in various LAS countries).

The death penalty

A number of countries impose the death penalty for the crime of rape, particularly when aggravating circumstances are present.⁵² Equality Now opposes the death penalty in all circumstances as a violation of human rights.

Other punishments

In some countries, punishments are defined in accordance with Islamic Law.⁵³ This is followed in Saudi Arabia, Sudan and Yemen.⁵⁴

In Saudi Arabia⁵⁵ there is no written Constitution or written penal code. It is challenging to establish what is covered and its degree of conformity with international standards. Shari'a Law is applied to various crimes.

While Saudi Arabia applies the punishments of Qisas, Hudud/Hadd and Ta'zir⁵⁶ according to Islamic Law and Yemen has a written penal law which defines the crimes and punishments of Qisas, Hudud and Ta'zir according to Islamic law, the vast majority of countries in the region do not incorporate Islamic punishments into their penal codes.

3.4 Impunity

‘Marry your rapist’ laws

In some countries, the law provides that perpetrators may escape punishment completely if they marry their victims, based on the belief that this is necessary and preferable in order to protect the so-called ‘honour’ of the girl/woman concerned and her family. Although recently there has been significant progress in repealing ‘marry your rapist’ laws following sustained campaigns by civil society⁵⁷ in several LAS countries, in practice it is still often the case that the perpetrator, the victim’s/survivor’s family, sometimes assisted by prosecutors, judges and the police and other members of their community, collaborate in re-victimising the victim/survivor and condemn her to further abuse in a forced marriage with her rapist. This remains supported by the law in some countries.^{58 59}

The CEDAW Committee has repeatedly expressed concern over such practices and called on States to take measures to stop them and repeal the related laws that facilitate such practices.⁶⁰

On 2 July 2025, Kuwait abolished its equivalent of the ‘marry your rapist’ law. In a move that involved revisions to other discriminatory laws, Kuwait has now set the minimum age of marriage at 18 and amended other ‘honour’-associated crimes, such as banning mitigation for murder of a female relative caught in a sexual act which could also have been used to cover up rape. These welcome changes offer a compelling precedent for other LAS member states by demonstrating political will to eliminate impunity, uphold survivors’ rights and bring national laws into conformity with international human rights obligations.

Reconciliation with the perpetrator

In some jurisdictions, if reconciliation occurs between the victim and the perpetrator in cases of sexual assault or rape, the court may still retain discretionary power to hear the case. The outcome is not predetermined and can vary based on the specific circumstances of each case. When deciding, the court considers the severity of the crime and any mitigating factors (which could include reconciliation). For example, in Egypt, even if the victim and perpetrator reconcile, the public prosecution may still refer the case to court, where the judge has the discretion to either issue a conviction or impose a suspended sentence under Article 55 of the Egyptian Penal Code. Alternatively, the court may issue a reduced sentence under Article 17. In practice, however, the case is never likely to be heard in court.⁶¹

In some countries, the law provides that perpetrators may escape punishment completely if they marry their victims, based on the belief that this is necessary and preferable in order to protect the so-called ‘honour’ of the girl/woman concerned and her family.

Punishment for the failure to establish proof of rape

The notion of so-called ‘honour’ has important practical implications for access to justice by victims/survivors.

In some countries that strictly apply punishments for rape according to Islamic Law, for example Mauritania⁶², it is legally required that witnesses come forward to testify that rape has taken place and that they have actually witnessed it.⁶³ This makes it extremely challenging for women to prove their cases for a crime where there are rarely other witnesses present to verify that rape has taken place and, if the victim/survivor delayed in reporting, there may not be any forensic evidence available to support her case. This means that victims/survivors of rape are frequently hesitant to tell their families about the sexual violence they suffered in case the rape cannot be proven or they are not believed. Moreover, most of the LAS countries penalise sexual relations outside marriage. Women who make complaints of rape and are not able to prove them can then be considered to have confessed to sexual relations outside of marriage (*Zina* (الزنا) if they are single, or considered adulterous, if they are married, as has been highlighted by the CEDAW Committee.⁶⁴

The Concluding Observations of the CEDAW Committee to Mauritania summarise several aspects of such challenges that victims/survivors face based on such a legal framework. The CEDAW Committee noted with concern that:

Women are also often deterred from coming forward because of the risk of being re-victimised by their families and societies.

Women who make complaints of rape and are not able to prove them can then be considered to have confessed to sexual relations outside of marriage.

“perpetrators often enjoy impunity owing to an inadequate legal framework protecting women, as well as the underreporting of incidents owing to women’s mistrust in the justice system and the police, including their risk of being subjected to prosecution under an accusation of having sexual relations outside of marriage (zina), to which the death penalty applies, and to virginity testing during forensic examinations for rape that do not meet international health protocols and standards. The Committee further notes with concern that women are ... often re-victimised owing to gender-insensitive responses by first-line responders and law enforcement officers. It also regrets the lack of victim protection and support services in the State party, which are delegated largely to non-governmental organisations.”⁶⁵

In addition to the difficulty in proving rape or the risk of being punished by the legal system for having been raped, women are also often deterred from coming forward because of the risk of being re-victimised by their families and societies,⁶⁶ being blamed for breaking social codes and causing the rape to happen, rather than being treated as victims/survivors. The framing of the law that supports these beliefs and the response of law enforcement reflect this re-victimisation and in turn contribute towards the reinforcement of these discriminatory views.

Impunity: 'honour crimes'

Penal codes, as a general rule, include provisions that allow for the mitigation of certain crimes, resulting in the reduction or elimination of punishment. In LAS countries, such crimes include those generally labelled as 'honour' crimes. These are crimes committed by male members of the family in the name of 'protecting honour', generally against the wife, mother, sister, or daughter who has been accused of engaging in *Zina* or any other form of sexual relation outside marriage that is not approved by the family. The 'honour' crime would generally involve killing or harming the female member of the family and/or her partner. Some countries do not have specific provisions that refer directly to mitigation for violent responses to sex outside marriage, but may include general mitigation provisions that refer to acts committed in anger to protect one's 'honour'. If the mitigation is accepted, punishments for murder/manslaughter and assault and battery are significantly reduced. In some cases, the perpetrator may not face punishment at all.

After extensive campaigning primarily by civil society, provisions that allow for mitigation related to so-called 'honour' crimes have been repealed in some Arab countries including Kuwait (2025); the United Arab Emirates (2020); Syria (2020); Palestine (2011); Lebanon (2011); and the Kurdistan Region of Iraq (which suspended the applicability of Art. 409 (on mitigation of the so called 'honour' crime) of the Iraqi Penal Code in the Kurdistan region in 2015).

However, despite the repeal of these provisions, so-called 'honour' crimes are still perpetrated either because cases are not being prosecuted, so there is no accountability, or judges may still impose a much-reduced sentence using other provisions on mitigation in the law. This is possible because legal systems normally grant judges the discretion to assess the circumstances and reduce sentences accordingly.⁶⁷ In Egypt, for example, Article 17 of the Penal Code is often used to reduce sentences on perpetrators of 'honour' crimes and rape sometimes without obliging the judge to justify his decision. By contrast, the same article is legally prohibited from being used in cases of drug crimes. Tribes or families of the parties in some countries may intervene to settle cases without any criminal prosecution.

There have been anecdotal reports that crimes of so-called 'honour' have been used to cover up rapes, particularly incest, with families preferring the murder of the victim/survivor to the exposure and punishment of the perpetrator.⁶⁸ Such mitigation provisions with regard to so-called 'honour' crimes, which effectively permit murder (and rape) and exonerate the murderer, also contribute to a culture of impunity for sexual violence. Such use of so-called 'honour' crime mitigations to cover up crimes of rape needs to be investigated further.

3.5 Aggravating circumstances

The laws of LAS countries include a number of aggravating circumstances which could increase the penalty for rape. The provisions largely relate to:

- ◆ Who the perpetrator is
- ◆ Who the victim/survivor is
- ◆ Outcome of the act
- ◆ Method used for committing the act

Aggravation based on the identity of the perpetrator

Penal laws generally impose aggravating sentences related to who the perpetrator is. The following are the main legal provisions for increased penalties for sexual violence:

Relation between the perpetrator and the victim/survivor

In all LAS countries, close family relations between the perpetrator and the victim/survivor are referred to as a cause of aggravation of sentencing. These often include ascendants or descendants of the victim/survivor, but

sometimes other blood relations are specified. Some laws refer to the *mahram*⁶⁹ of the victim/survivor specifically. This generally means that rape by close family members are punished more severely by the law.

The vast majority of laws in LAS countries also refer to aggravating circumstances when the perpetrator is responsible for the victim's/survivor's upbringing or care or has some authority over her (these individuals usually are not related by blood to the victim/survivor).

Abuse of power

The majority of laws have increased liability for perpetrators who abuse their office, authority, or power in order to compel the subordinate victim/survivor to engage in sexual relations. Recognition in the law that exploitation and abuse of a position of power (by the perpetrator) and vulnerability (of the victim) are worthy of additional punishment in rape cases is a hopeful sign that the notion of free and willing consent is understood as being a critical factor that should and could influence the definition and application of crimes of sexual violence.



Identity of the victim/survivor

There are several elements in the law relating to the victim/survivor which could result in aggravated penalties for rape. These include:

The age of the victim/survivor

Frequently, the age of the victim/survivor is used as an aggravating factor. Different countries specify different ages. For some countries, this includes anyone below 18,⁷⁰ or sometimes as low as 15.⁷¹ In other cases, countries specify various aggravated penalties for different age brackets under 18 years of age.⁷² In the case of Saudi Arabia, there is no clear aggravation related to specific age(s), given that there is no written penal code. The penalty related to the age of the victim/survivor can also vary depending on the crime. In Egypt, rape is aggravated if the victim/survivor is below 18, while with respect to sexual assault (indecent acts) the crime is aggravated if the victim/survivor is below 12.

Persons with cognitive disability

Frequently, the inability of the victim/survivor to understand the nature of the act committed, often referred to in the laws as 'mental' or 'emotional' or 'psychological' disability or impairment, is cited as a cause for aggravation. Even though these disabilities or impairments are legally acknowledged and rape in these contexts can be additionally punished through aggravating circumstances, women and girls with disabilities face unique barriers to justice when subjected to sexual violence. These include physical inaccessibility of police stations and courts, lack of disability-inclusive services, communication barriers for those with sensory or intellectual disabilities and lack of awareness or sensitivity among law enforcement and judiciary personnel. Survivors with disabilities are also more vulnerable to being disbelieved or not taken seriously due to stereotypes that desexualise or infantilise them, or due to assumptions about their ability to testify credibly in court.⁷³

Moreover, legal systems across LAS countries generally lack procedural accommodations that would enable victims with disabilities to effectively participate in legal processes. This includes the absence of sign language interpretation, easy-to-read formats, or trained support persons during investigations and trials.⁷⁴ The invisibility

of this issue in legal reforms and national strategies on violence against women means that the rights of victims/survivors with disabilities continue to be sidelined despite the obligations under the Convention on the Rights of Persons with Disabilities (CRPD), to which most LAS countries are party.

Some LAS countries⁷⁵ include references in their laws to the inability to consent to sexual relations by persons with psycho-social or mental disabilities.⁷⁶ However, there is very little training for law enforcement officials in most LAS countries regarding the best ways to deal with cases of rape of victims/survivors who may have psycho-social or mental disabilities. This makes the experience of these victims/survivors particularly difficult when they come into contact with law enforcement officials. In addition, the lack of research, data collection and analysis of how these rape cases are managed adds to the invisibility of the particular experiences of these victims/survivors in terms of access to justice.

Persons with illness or physical disability

Illness or physical disability, or other physical conditions such as pregnancy which are deemed to limit the ability of the victim/survivor to resist rape⁷⁷ are frequently included in penal codes as an aggravating factor.⁷⁸

Survivors with disabilities are also more vulnerable to being disbelieved or not taken seriously due to stereotypes that desexualise or infantilise them, or due to assumptions about their ability to testify credibly in court.

Outcome of the crime of rape

Various outcomes that may result from the act of rape are referred to in the penal codes of LAS countries. These include: the victim/survivor developing a sexually transmitted disease;⁷⁹ becoming pregnant;⁸⁰ losing her virginity; and/or miscarrying if she was pregnant before the rape.⁸¹ Laws also include additional punishment with respect to the victim/survivor having been injured or even killed as a result of the crime of rape committed against them.⁸² Reference is also made to a victim/survivor committing suicide as a consequence of rape.⁸³ Whether these provisions are frequently used and how evidence is established to support an increased sentence based on some of these aggravating factors requires further investigation.

There is no specific legal framework that comprehensively addresses incest.

Methods of commission

Gang rape

The majority of laws in LAS countries stipulate aggravating sentences when two or more persons contribute to the commission of the crime.⁸⁴

Use of weapons

A small number of LAS countries include the use of weapons to threaten the victim/survivor while committing rape as a cause for increasing the sentence.⁸⁵

In the few strictly Islamic legal systems, the use of weapons during rape may be classified under *haraba*, a category of *hudud* crimes that involves violent acts such as armed robbery or rebellion. *Haraba* is typically associated with crimes that pose a significant threat to public safety, often involving the use of weapons. When a weapon is used during rape, this could elevate the crime to an aggravated offence, making the perpetrator liable to harsher penalties under *hudud laws*. The severity of the punishment can range from corporal punishment to the death penalty, depending on the legal framework of the country.

However, the application of *haraba* in the context of rape varies from one country to another. While some legal systems may consider the use of weapons during rape as a form of *haraba*, others may apply different legal provisions or aggravating circumstances for crimes involving violence and weaponry. The legal interpretation and classification depend on the specifics of each country's legal system and how it integrates *hudud* law within its broader criminal code.



3.6 Not all forms of rape are explicitly criminalised

There are other forms of rape that are not explicitly criminalised in the penal laws of LAS countries. These mainly relate to marital rape including rape in the context of forced or child marriage. If marital rape has not been explicitly excluded from the provisions of the law, it might still theoretically be possible to prosecute in these circumstances. However, in practice, it will be very difficult to do so, for example, due to stereotypical views on the respective roles of women and men, including those held by prosecutors and judges, as well as possible separate legal provisions mandating certain ‘marital duties’ for married women.

Some forms of commonly recognised incest are addressed in the law, mainly through increased punishments (see in more detail below). There is no specific legal framework that comprehensively addresses incest, so victims/survivors must rely on general laws related to rape for legal recourse. The problem in practice is there are cultural and other taboos that deny the existence of these forms of rape such that they are not always prosecuted under the normal law on rape.

Marital rape

Marital rape is not expressly criminalised in any LAS country in all likelihood due to deeply rooted cultural and religious beliefs that prioritise family privacy, male authority and male entitlement.⁸⁶ Conservative interpretations of Islamic law in these countries often view sexual relations within marriage as a husband's right and criminalising marital rape is seen as conflicting with these norms. In addition, in some countries, the provisions of the penal law relating to rape specifically exclude the possibility that a wife could be ever raped by her husband. This includes Jordan, Palestine (West Bank) and Syria.

Legal provisions that specifically exclude wives as victims are usually limited to crimes of rape, whereas provisions on sexual assault normally do not explicitly exclude wives. Therefore, it could theoretically be possible to prosecute a husband for sexual assault within the context of domestic violence, including in respect of crimes that under international law would be considered rape. More research will need to be undertaken to establish whether sexual assault provisions have ever been used in this way. Given the explicit rejection of the concept of marital rape in several penal codes and the provisions in some family

laws regarding spousal ‘duties’, it is thought unlikely. For instance, in Egypt, marital rape and/or domestic violence can be justified based on Article 60 which stipulates that “the provisions of this Penal Code shall not apply to any deed committed in good faith, pursuant to a right determined by virtue of the Shari’a”. The use of such article can prevent any criminalisation of marital rape or domestic violence as it views “discipline” and “sex” as the prerogative of the husband:

“If sex was practised in a violent manner that caused injuries to the wife, there is no crime in this case. Personally, I will refer it (to the court) as a crime of accidental injury. Because the intent to assault does not exist. However, if the intent of the violent act is to assault, it can be classified as a crime of battery (assault) according to Articles 241-242 of the Penal Code. This criminal act will be treated as a misdemeanour, not a felony”. A judge from Egypt

In Somalia, Sudan and Yemen, there are legal provisions, normally in family status laws, that explicitly require a wife to make herself available to her husband for sexual intercourse whenever he so chooses, considering this as his right.

- ◆ In recent years, countries that have adopted legislation to prohibit domestic violence have included sexual violence as a form of domestic violence insofar as a husband assaults his wife in claiming his marital ‘right’ to sex. Countries that have adopted specific laws criminalising domestic violence along these lines are: The Kurdistan Region of Iraq (Act No. 8 of 2011); Lebanon (Law No. 293 of 2014); Bahrain (Law No. 17 of 2015); Tunisia (Organic Act No. 58 of 2017); Morocco (Law No. 103.13 of 2018); United Arab Emirates (Federal Act No. 10 of 2019); and Kuwait (Act No. 16 of 2020).⁸⁷

Punishing domestic violence is consistent with international human rights standards. However, since such laws generally categorise sexual violence in the domestic sphere, including what would be recognised as marital rape, as a crime of assault or harm, it tends to receive a much lower sentence than rape according to the penal codes of the various countries. It also leaves unpunished other acts of non-physical coercion and intimidation used to perpetrate sexual violence.

Tunisia's Organic Act on Combating Domestic Violence for example imposes a punishment of two years and a fine for beating or causing injury to the woman by a husband or partner or previous partner.⁸⁸ Harm, according to the Organic Act, includes sexual harm. In contrast, Article 227, amended by the Organic Act, assigns the punishment of 20 years for rape, which is defined as "Any act that leads to sexual penetration, whatever its nature and the means used, against a female or male without their consent". Since the new domestic violence law has now been in place for a few years, it would be important to study which law, if any, has been more commonly used to prosecute rape in a marriage setting and what the outcomes have been.

The notions of 'honour' and 'shame' also influence how families and society leaders, and even law enforcement officials, deal with marital rape. Often, recourse to reconciliation in cases of domestic violence, including rape, is the preferred route (for example in Iraq, Jordan, Mauritania, Palestine and United Arab Emirates) rather than prosecution. This can lead to re-victimisation and further impede the victim's/survivor's ability to access justice.

In a case brought before the Egyptian Court of Cassation, Appeal No. 18486 of 92 Q, a husband was found to have sexually assaulted his wife, the victim, against her will, while he was one of those who had authority over her. He assaulted her by beating her, removing her clothes and having anal sexual intercourse with her. He repeated this act, causing her injuries as stated in the forensic report.

The court imposed one year of imprisonment with hard labour, but suspended the sentence. If the court had been able to impose the regular penalty for sexual assault outside marriage as stipulated in the Penal Code, Article 268, punishment would have been rigorous imprisonment up to a life sentence. As it was, the court applied mitigation to reduce the penalty using Article 17 and Article 55 to suspend the execution of the sentence.



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Child marriage and sexual violence

Under international law, including the Convention on the Rights of the Child, marriage under the age of 18 is considered a human rights violation. Most LAS countries define a child as any person under 18. A number of countries in the LAS fail to set a minimum age of marriage under the law, or set an age under 18, even as low as 9 for girls. This leaves girls open to unwanted sexual relations and sexual abuse in marriage.

In some countries, child marriage, especially with respect to girls, is prevalent even where it is banned or restricted. This persistence is rooted in a range of social, economic and cultural factors that continue to drive the practice despite legal prohibitions. One powerful motivator is the deeply entrenched notion of protecting a girl's 'honour' and chastity. In conservative societies, this belief often acts as a major impetus for the early marriage of girls. Families, particularly those living in refugee camps or among internally displaced populations, may feel unable to shield their daughters from the threat of sexual violence. As a result, they may see marriage as a protective measure, both as a way to preserve the so-called 'honour' of the girl and her family and as a perceived safeguard against potential sexual exploitation.⁸⁹ However, such marriages only reinforce harmful stereotypes that view women and girls as bearers of family honour. Worse still, they may condemn young girls to lifelong sexual and emotional abuse within marriages they did not choose. They can also leave girls in legally vulnerable situations, with few rights and protections. In some cases, this includes the inability to officially complain of domestic abuse and rape due to their status as minors, especially when the legal guardian of a married minor is, by default, her husband.

Incest

A number of LAS countries criminalise incest directly as a stand-alone offence and others indirectly through provisions that consider it an aggravating factor in respect

of rape and sexual assault (see above). There are countries that include both aspects. When considered as a separate offence, acts of sexual violence covered include those committed against a minor in a family setting, such as: when the perpetrator is an adult and the victim/survivor is a minor and is related to the perpetrator by blood, marriage, adoption, fostering or other analogous familial affiliation. Provisions on aggravating factors do not always include all the relationships commonly covered under incest provisions.

- ◆ Countries that include clear direct provisions criminalising incest in their laws are Algeria, Jordan, Lebanon, Palestine (West Bank and Gaza Strip), Sudan and Syria. Tunisia criminalises incest against a child only.
- ◆ Countries that do not have the crime of incest explicitly stated in the law but have aggravating factors to rape that may cover some individuals within this category (if the perpetrator is an ascendant of the victim/survivor, or responsible for her/his upbringing, observing her/him, or having authority over her/him) include the following: Bahrain, Egypt, Kuwait, Libya, Mauritania, Qatar, United Arab Emirates and Yemen.
- ◆ In some countries in respect of aggravated punishment, there is a direct mention of rape by the *mahram* of the victim/survivor,⁹⁰ which would therefore also include some of the individuals indicated above. These include the following: Iraq, Kuwait, Morocco, Oman, Qatar, Saudi Arabia and Somalia.

The legal landscape regarding incest varies widely across LAS countries. A comprehensive consent-based law on rape addressing all instances of coercion and exploitation of a position of vulnerability or dependency would address the above protection gaps.

Chapter 4:

Regional and international human rights standards on rape

4.1 State responsibility under international law towards survivors of sexual violence

Article 2 of CEDAW, supported among others by the CEDAW Committee's General Recommendations 19 and 35, requires all States to “repeal all national penal provisions which constitute discrimination against women”. This principle also applies to repealing any discriminatory definitions of rape and other forms of sexual violence, as well as to the procedural laws under which sexual violence is prosecuted and punished.

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4.2 International standards on the definition of rape

International and regional bodies have handed down various jurisprudence on the definition of sexual violence, including on how the issue of consent should be interpreted. Based on international human rights standards, definitions of rape should be amended to incorporate voluntary agreement together with a broad range of coercive circumstances that would indicate agreement had not been voluntary.

The Rome Statute of the International Criminal Court (ICC) includes rape as a crime against humanity⁹¹ and a war crime.⁹² A crime is considered rape for the purpose of the Statute of the ICC when the perpetrator “invaded the body of a person”. Annex B5 regarding the constituent elements of the crime against humanity and war crime of rape further elaborates that this invasion is considered rape when “[it] was committed by force, or by threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power, against such person or another person, or by taking advantage of a coercive environment, or the invasion was committed against a person incapable of giving genuine consent.”⁹³

The consent of the victim/survivor should not be taken into account if the circumstances deprived them of “voluntary and genuine consent”. A victim’s silence or non-resistance does not mean consent. Accordingly, consent cannot be voluntary and genuine, nor will it have any significance at all, when coercive circumstances are in place.

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The CEDAW Committee, in its General Recommendation 35 provides that the definition of sexual crimes, including marital and acquaintance/date rape, should be based on lack of freely given consent and take account of coercive circumstances.⁹⁴ Further, in the case of *Karen Tayag Vertido v the Philippines*⁹⁵ the CEDAW Committee stressed that “there should be no assumption in law or in practice that a woman gives her consent because she has not physically resisted the unwanted sexual conduct, regardless of whether the perpetrator threatened to use or used physical violence,”⁹⁶ suggesting that the state should remove the criterion of violence from the definition of rape and should instead enact a definition of rape, which:

a. Requires the existence of “unequivocal and voluntary agreement” and proof by the accused of steps taken to ascertain whether the complainant/survivor was consenting; and

b. Requires that the act take place in “coercive circumstances” and includes a broad range of coercive circumstances.

The UN’s Handbook for Legislation on Violence against Women further specifies that laws on sexual violence should include a broad range of coercive circumstances and avoid over-emphasis on the existence of use of force.

A former UN Special Rapporteur on violence against women, its causes and consequences elaborated on this, stressing that the definition of rape must recognise a broad range of coercive circumstances where consent cannot be voluntary, genuine, or willing and where the victim/survivor is incapable of giving consent. Consent must be assessed in the context of the surrounding circumstances. Intercourse without consent should be criminalised as rape in all situations. Force or threat of force should not be central to any definition relating to rape. To establish a defence against rape, the burden of proof must be on the accused to show that full and genuine consent was obtained before sexual intercourse.⁹⁷

The definition of rape must not be limited to vaginal penetration, or only to penetration by the male sexual organ, as is the case in the LAS countries. All acts of non-consensual sexual penetration, regardless of the depth of penetration, must be sufficient to establish rape. All acts of non-consensual penetration of a sexual nature of any orifice must be equally criminalised and punished.

The Istanbul Convention⁹⁸ also obliges parties to the treaty to criminalise all non-consensual acts of a sexual nature. Article 36(2) specifies that consent must be given voluntarily as the result of a person's free will, which should be assessed in the context of the surrounding circumstances. In a recent judgment on the law in France, the European Court of Human Rights concluded that any rigid approach to the prosecution of sexual offences, which would consist, for example, in requiring proof of physical resistance in all cases, risked leading to impunity for the perpetrators of certain types of rape and consequently compromising the effective protection of the sexual autonomy of the individual.⁹⁹ In *MC v Bulgaria* regarding the consent-based definition of rape and its investigation, the Court, inter alia, considered that "while in practice it may sometimes be difficult to prove lack of consent in the absence of "direct" proof of rape, such as traces of violence or direct witnesses, the authorities must nevertheless explore all the facts and decide on the basis of an assessment of all the surrounding circumstances".¹⁰⁰

The Inter-American Court of Human Rights, in the case of *Brisa de Angulo Losada vs Bolivia*¹⁰¹, established that crimes "relating to sexual violence must focus on consent, an essential element in access to justice for women victims of sexual violence". It clarified that "it is not necessary to demonstrate resistance to physical aggression, but rather a lack of consent, in accordance with Article 7 of the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women¹⁰² (Belém do Pará). Consent can only be understood to exist when it has been freely expressed through acts that, in light of the circumstances of the case, clearly express the will of the person...in accordance with General Recommendation No. 3 of the CEVI¹⁰³, the Court considers it essential that States include in their criminal legislation certain elements to determine the absence of consent in a sexual act, such as: (a) the use of force or the threat of using it; (b) coercion or fear of violence or the consequences; (c) intimidation; (d) detention and/or deprivation of liberty; (e) psychological oppression; (f) abuse of power and (g) the inability to understand sexual violence."¹⁰⁴

The Arab Charter on human rights prohibits "all forms of violence or abuse in relations among [family] members and particularly against women and children."¹⁰⁵ While this provision addresses violence, it fails to explicitly define or reference sexual violence, leaving significant gaps in protection. The Charter's focus is limited to violence within the family, neglecting sexual violence occurring in other contexts. Despite its coverage of family-based violence in general, the Committee of the Arab Charter, tasked with overseeing implementation, has not consistently addressed sexual violence within the family, including critical issues such as marital rape.¹⁰⁶

The CEDAW Committee stresses that laws on violence against women, including domestic violence laws, must specifically criminalise gender-based violence against women, including rape, in all circumstances. This must include marital rape,¹⁰⁷ crimes committed in the name of so-called 'honour' and other harmful practices.¹⁰⁸

Further, the CEDAW Committee and the Committee on the Rights of the Child state that a minimum legal age of marriage for girls and boys, irrespective of parental consent, must be established at 18 years without exception.¹⁰⁹ The two Committees highlight that "child marriage is considered to be a form of forced marriage, given that one or both parties have not expressed full, free and informed consent."¹¹⁰ Sexual relations involving children in a forced child marriage raise concerns of rape. Laws criminalising rape should clearly establish that consent of children below the age of 16 is immaterial.¹¹¹ The CEDAW Committee frequently raises concerns over the prevalence of child marriage, particularly in rural and remote areas and among girls living in poverty, even under the pretext of better protection of girls.

All acts of non-consensual sexual penetration, regardless of the depth of penetration, must be sufficient to establish rape. All acts of non-consensual penetration of a sexual nature of any orifice must be equally criminalised and punished.

Problems with force-based definitions of rape¹²

Force-based definitions are problematic for the following main reasons:

- ◆ **Perpetuation of rape myths:** Definitions centred on force contribute to harmful rape myths and tend to perpetuate the notion that it is the responsibility of victims/survivors to protect themselves and, if a victim/survivor does not fight back, she is seen as a willing participant in the sexual act. The proposition that victims/survivors are in a position to fight back cannot be either expected or assumed and in any case ignores rape victims/survivors who may freeze, or remain passive because of fear of further harm, or who respond by shutting down when they are attacked, for example. Credence given to the false premise that victims/survivors can and should fight back frequently in practice denies them protection of the law despite the violence that they suffered.
- ◆ **Barriers to reporting and evidence collection:** For a variety of reasons, including fear of retaliation, loss of family support, or social stigma, victims/survivors do not always immediately report sexual violence. This is particularly true for young and adolescent girls, who may not realise that the acts committed against them constitute a crime. They also may find it difficult to report or raise the issue at the time, particularly when the perpetrator is a relative, or a person with authority over them, or another trusted individual. Implementers of force-based definitions without proper training tend to default to requiring proof of additional violence. However, delayed reporting makes it practically impossible to procure physical or medical evidence, such as DNA material or bodily injuries, to prove that additional physical violence was used during the rape, as such evidence may no longer exist at the time of reporting.
- ◆ **Rape without physical force:** Rape can occur without the use of additional physical force or violence. Perpetrators can and do use coercion or exploit their position of power, authority, or undue advantage to rape particularly young or otherwise vulnerable women. Examples include cases of incest and other unequal power relationships such as teacher-pupil, coach-athlete, counsellor-patient, doctor-patient and prison warden-prisoner, to name but a few. Force-based definitions frequently fail to capture the complexity of coercion and manipulation in these contexts and are often interpreted to mean that a crime is committed only when physical force is used.
- ◆ **Undermining consent:** Force-based definitions distract from the central issue of consent. The focus should be on whether voluntary, genuine and willing consent was given and in consideration of a broad range of surrounding circumstances and not on whether the victim/survivor was violently forced to engage in the sexual activity. It is critical to recognise that a victim/survivor may acquiesce to a sexual act, but the act may still be unwelcome and/or engaged in unwillingly. For example, it is possible that through physical or non-physical force, coercion, pressure or exploitation of vulnerability, a woman or girl agrees to have sex. This type of consent to engage in an otherwise unwanted sexual act is not voluntary, genuine or willing.

As a result, force-based definitions without a strong commitment by law enforcement to secure justice free from negative stereotypes of the victim/survivor can send the wrong signal about where the responsibility for rape should lie and so leave room for significant impunity.

Sexual violence during conflict

There is a need for more concerted attention to the issue of rape during wartime. All people suffer during conflict, but conflict often results in higher levels of gender-based violence, including sexual violence, being perpetrated against women and girls.

Sexual violence is sometimes used as a tool and tactic of war to subjugate, terrorise and break women and girls as a means of punishing specific communities, which in some cases may have been racially, ethnically and politically motivated. It is also used as psychological warfare and in the context of ethnic cleansing and genocide. Rape in the presence of family members is used to humiliate and traumatise the enemy and to show dominance. This has been seen as part of the recent conflict in the Darfur region of Sudan for example.¹¹³ Vulnerability to violence also increases when there is more danger on the streets; breakdown of communities; weakening of law-enforcement; lack of availability of, or access to, any shelter, including specialised shelters; severely reduced healthcare, including forensic testing for rape; displacement of populations; and death of parents or close family members, which leaves girls particularly at risk. Women and girls are also being forced into sexual slavery.¹¹⁴ Forced marriage of women and girls often increases in these circumstances.¹¹⁵ War inevitably leads to a rise in the number of women and girls with disabilities, increasing their overall vulnerability – including their risk of sexual violence.

Accountability for rape during conflict is rare.

Accountability for rape during conflict is rare, as governments do not or cannot address victims'/survivors' lack of access to justice or provide specialised support. For example, it has been over ten years since Yazidi women and girls and those from the Christian, Turkman, Shabak and Kurdish communities were raped and sexually enslaved in Iraq by Islamic State (ISIS) militants. The Yazidi Survivors Law was issued in March 2021 to redress violations by ISIS against the Yazidi, Christian, Turkman and Shabak women and girl survivors. Kurdish women were not explicitly mentioned. However, reparations remain hard to access due to social, procedural and judicial constraints, coupled with reports of harassment of women attempting to file complaints.¹¹⁶ Additionally, a solution to the legal status of Yazidi children born as a result of ISIS rape crimes has still not been provided.

Moreover, the general devastation caused by war and conflict leads to a breakdown in the rule of law and leaves previous sexual violence crimes unpunished if forensic tests and other evidence are lost and criminal records have been destroyed. Courts may also cease to function. For example, following Israel's retaliatory assault on Gaza that began in 2023, the justice system in Gaza became non-operational. Although court jurisdiction was transferred to the West Bank¹¹⁷, the ongoing conflict and the Israeli blockade have made it physically impossible for Gazan women to access the courts there.

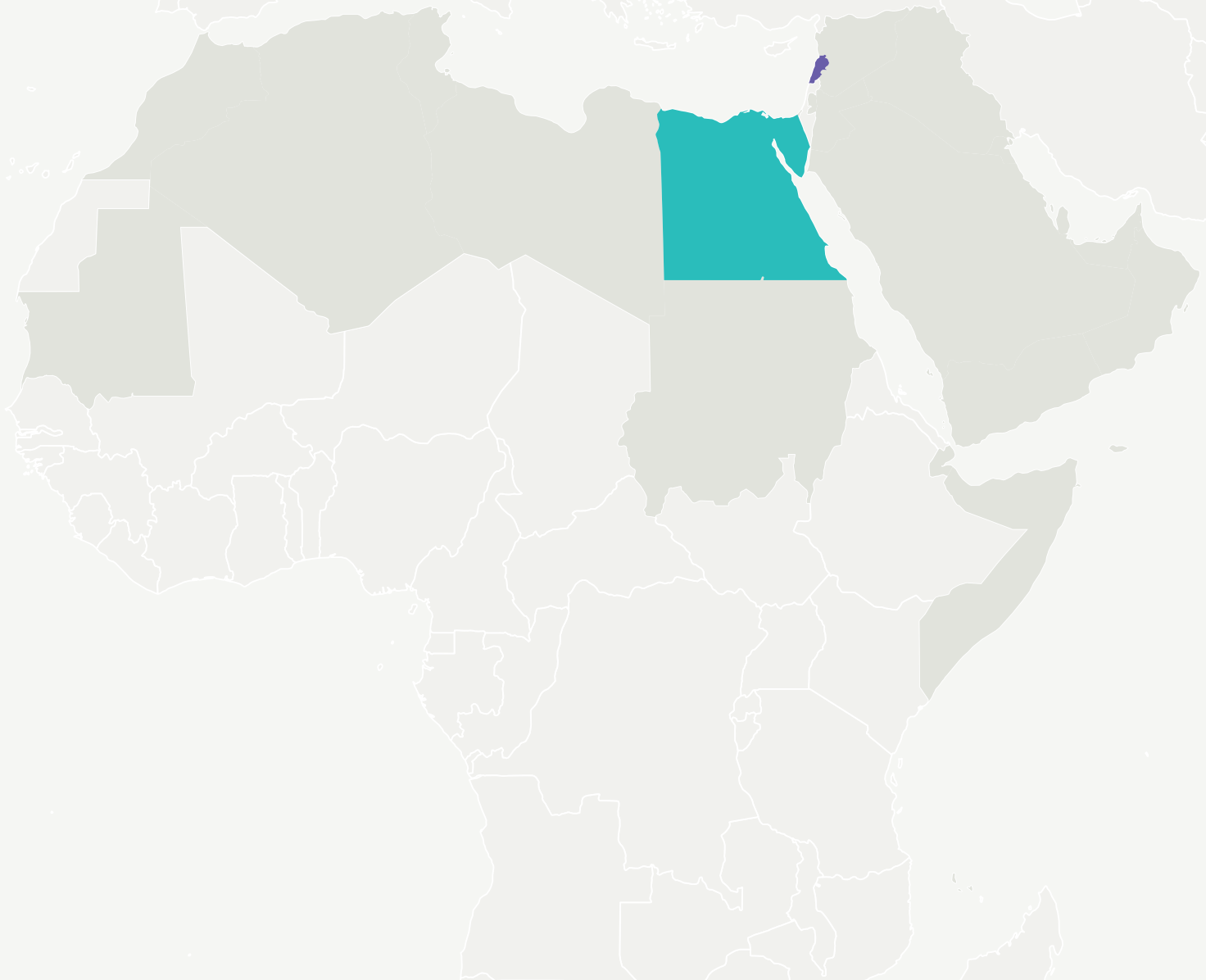
The general devastation caused by war and conflict leads to a breakdown in the rule of law and leaves previous sexual violence crimes unpunished if forensic tests and other evidence are lost and criminal records have been destroyed.

The killing of lawyers, healthcare workers, journalists and civil society activists in particular also diminishes the number of people normally active in raising awareness, exposing sexual violence and lending support to victims. In societies that significantly struggle to promote the equality of women and achieve concrete protections for women against gender-based violence, such as the establishment of shelters, war and conflict can set back progress for women generally. Women and girls become increasingly vulnerable over the longer term.

Chapter 5:

Countries of additional focus: Egypt and Lebanon

This chapter provides an examination of the legal frameworks and social realities surrounding rape laws in Egypt and Lebanon. These two countries were selected as focus cases due to their different legal traditions—Egypt following a civil law system influenced by Islamic jurisprudence and Lebanon operating under a pluralistic legal system consisting of civil law and religious law (Christian and Muslim). Both countries have also witnessed active legal and social reform movements in recent years, offering valuable insights into the interplay between legislation, advocacy and cultural norms in addressing sexual violence.





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Egypt

Legal framework and definitions

Egypt's legal framework for addressing rape and sexual violence is encapsulated in its Penal Code, with Article 267 criminalising rape as sexual intercourse between a man and a woman without her consent¹¹⁸, which has been interpreted to mean penile penetration of a vagina. The legal system mandates severe penalties for perpetrators - life imprisonment or, in the case of aggravating factors such as the survivor being under 18 or the perpetrator holding a position of authority, even the death penalty.¹¹⁹ Article 268 penalises sexual assault by force or threats, including penetration of a sexual nature of orifices other than a vagina and with body parts other than a penis, or with objects.¹²⁰ Based on this legal distinction, penalties are often lighter for sexual assault compared to rape, unless there are aggravating circumstances.¹²¹

The law's progressive recognition of consent as central to the definition of rape is a step forward in comparison with many regional jurisdictions,¹²² yet significant gaps persist in its practical application. In theory, consent should be the defining factor, but in practice, judicial interpretations often focus on physical evidence. Such emphasis on physical evidence over a full evaluation of all the circumstances, including whether the victim/survivor consented or not, reflects a deep-rooted patriarchal mindset that continues to sideline the victim/survivor and reinforces the harmful notion that victims must physically resist rape in order for it to be recognised as such.¹²³

Prevalence and reporting

The true scale of sexual violence in Egypt is unknown, since rape is thought to be vastly underreported and victims remain invisible and without access to justice. Media reports suggested in 2013 that officials documented 20,000 cases annually,¹²⁴ but again, because of the general invisibility of the crime, the true number is likely to be much higher.

Digital platforms, such as @assaultpolice, #MeToo and i-saw-harassment, have helped to bring visibility to the issue of sexual violence, particularly post-2011, yet the awareness and trust in the legal system remain low. Studies reveal that 62% of women in Egypt are unaware of the national anti-violence hotline and 80% express doubts about the law's ability to deliver justice, highlighting the disconnect between legal provisions and their effectiveness in practice.¹²⁵

Such emphasis on physical evidence over a full evaluation of all the circumstances, including whether the victim/survivor consented or not, reflects a deep-rooted patriarchal mindset.

Societal and procedural barriers to justice

Societal pressures linked to family honour, particularly in conservative communities, act as powerful disincentives to reporting sexual violence. The pressure to maintain the chastity and virginity of women leads to a culture of silence, where the honour of the family becomes more important than the survivor's right to justice. This cultural paradigm is entrenched, despite the abolition of Article 291, which once allowed rapists to evade punishment through marriage to their victims.

In Egypt, survivors of rape and sexual violence often encounter a justice system that is not only hostile but also re-traumatising. Considering the expectation by law enforcement for victims to report immediately incidents of rape, delays in reporting are often used against the victim/survivor.

Forensic examinations remain heavily focused on evidence of physical resistance and signs of hymenal rupture. The focus on physical evidence (or its absence) is a barrier to justice, despite the consent-based focus of the law, particularly for survivors who, for various reasons, delay reporting of the crime.

Moreover, procedures within the justice system further re-victimise survivors. In many instances, survivors are subjected to invasive and degrading forensic procedures, with reports of unauthorised anal examinations and other violations of their dignity. This procedural insensitivity is compounded by a legal culture that frequently perpetuates a cycle of victim-blaming, questioning the morality of the survivor and putting the onus on her to prove her innocence and credibility instead of focusing on the actions of the accused.

Forensic examinations remain heavily focused on evidence of physical resistance and signs of hymenal rupture.

Case study: Court of Cassation Appeal No. 3949 of 87 Q

The Court of Cassation Appeal No. 3949 of 87 Q provides an example of how evidentiary standards and judicial interpretations undermine survivors' access to justice. The case involved a man who forcibly raped a woman in her own home after restraining her. The Court of Appeal initially convicted the perpetrator, based on the survivor's testimony and other evidence. However, the Court of Cassation overturned the conviction, citing a "deficiency in reasoning". The court emphasised that the lower court had failed to establish a clear causal link between the perpetrator's actions and the survivor's inability to resist, which was crucial to establishing that the survivor did not consent.

Instead of focusing on the context of the crime and evaluating the presence of consent or coercion, the court often places the onus on the victim/survivor to show that force had been used against her. This creates significant barriers to accessing justice.

Considering the expectation by law enforcement for victims to report immediately incidents of rape, delays in reporting are often used against the victim/survivor.

The role of civil society and legal support

In response to the systemic failures of the justice system, civil society organisations have become indispensable allies to survivors, providing vital legal support and advocacy. These organisations, often working in collaboration with lawyers and social workers, help navigate the legal labyrinth of police reports, forensic examinations and court procedures. Their legal accompaniment, especially in cases of incest or sexual violence in rural communities, helps protect survivors from further victimisation and re-traumatisation during the process.¹²⁶

Beyond legal aid, civil society's role extends to strategic public advocacy, particularly in calling for reform of evidentiary standards, training of police and judicial personnel and the elimination of discriminatory practices in law enforcement and judicial reasoning. For example, organisations such as Nazra for Feminist Studies, CEWLA and the Edraak Foundation have been pivotal in offering legal hotlines, psychosocial counseling, mobile support units and public campaigns aimed at shifting harmful norms around honour, virginity and consent.¹²⁷

Particularly noteworthy is their work around incest and child sexual abuse, which remains deeply taboo and chronically underreported in Egypt. Women's rights organisations have spearheaded confidential case handling protocols and community-based outreach to address such cases, while also advocating for judicial training on survivor-sensitive approaches.¹²⁸ This multi-pronged intervention by civil society demonstrates a critical response to institutional gaps and a de facto shadow protection mechanism in the absence of fully functional state-led systems.

Child marriage and marital rape

Despite the passage of Child Act No. 126 of 2008, which raised the minimum age of marriage to 18 and criminalised the registration of underage marriages, child marriage remains alarmingly prevalent, particularly in rural and impoverished regions of Egypt.¹²⁹ This persistence is facilitated by loopholes in enforcement, cultural norms and the complicity of some religious clerics, who continue to conduct unofficial marriage ceremonies (commonly known as *'urfi marriages*) outside of the formal legal system.¹³⁰

Clergy continue to preside over the marriage of minors in defiance of the law. Because the minimum age of marriage is not enforced, resulting in many unregistered child marriages, perpetrators of child marriage are effectively shielded from legal scrutiny and girls are denied access to inheritance rights, legal protection, or recourse in cases of abuse. Even if cases do reach the court, justice is minimal. In the Court of Cassation - Appeal No. 15418 of 89 Q, the perpetrator sexually assaulted his wife, who was under 18 years old, through anal penetration. The court imposed a one-year sentence with hard labour, applying Article 17 to mitigate the penalty, citing personal circumstances. These rulings highlight the significant judicial leniency in cases involving the sexual assault of a married girl by her husband, reflecting deep-rooted legal and cultural barriers to the full criminalisation and prosecution of such crimes in LAS countries.

Civil society organisations have become indispensable allies to survivors, providing vital legal support and advocacy.



Credit: Artaxerxes Longhand/iStock

Lebanon

Like many other countries in the region, Lebanon has inherited laws from Ottoman rule more than a century ago, as well as from the French mandate. Such colonial influences have shaped many of the provisions in the laws applicable today, including those related to rape and other forms of sexual violence. Some of these provisions have been amended while others remain, thus creating a conflict of and a lack of coherence in laws.

Legal provisions

Offences of sexual violence are not criminalised in a comprehensive way in line with international human rights standards, which would ensure that there is no impunity for perpetrators and that victims/survivors could access justice. The penal law of Lebanon criminalises two separate aspects related to the internationally recognised crime of rape (اغتصاب). The first is sexual intercourse (الجماع) by force or threat, included in the law under a section holding the title “Rape”. The second crime in the law is sexual assault, also by force and threat (العنف والتهديد). Jurisprudence shows that criminalised sexual intercourse by force or threat is taken to mean penetration of the female’s sexual organ by the male’s sexual organ.¹³¹ Criminalised sexual assault refers to sexual violence, including penetration of bodily orifices of a sexual nature by any bodily part or using an object, other than those acts included in the crime of rape. Provisions related to rape are included in the Penal Code under “Crimes against Morals and Public Ethics” (الجرائم المخلة بالأخلاق والآداب العامة). This signals that rape is considered a crime against the honour of the family, society, or the public, rather than a crime against the personal bodily integrity and sexual autonomy of the victim/survivor.

There are several legal and practical impediments that victims/survivors face when trying to access justice in cases of rape. For example, the law does not make any reference to a lack of consent to sexual intercourse. In

practical terms, this is taken to mean that rape must be proved by evidence of force and threat. Proving a threat alone is notoriously difficult. To evidence force, investigative judges rely on forensic reports. However, victims/survivors are more than hesitant to have rape tests carried out, even where they could evidence rape, given the taboo around anything to do with sex (consensual or non-consensual), and family and social attitudes which place a high value on female chastity. Victims/survivors largely continue to worry that their families and society will reject them on the basis of ‘impurity’, which could herald a life of isolation and potential destitution.¹³² Anecdotal evidence indicates that the effective requirement for biological or physical evidence means that most crimes of rape will therefore go unpunished.

Victims/survivors largely continue to worry that their families and society will reject them on the basis of ‘impurity’, which could herald a life of isolation and potential destitution.

Marital rape

The Penal Code explicitly excludes marital rape, which means that it is not possible to prosecute a husband for raping his wife. In fact, the law still affirms the right of a husband to sexual intercourse, rather than that being a mutual decision. However, in 2014, after many years of campaigning, Law No. 293/2014 on the Protection of Women and All Members of the Family from Domestic Violence was adopted, as a result of which some Articles of the Penal Code were amended. While there is no crime of domestic violence (including marital rape) per se, as a result of Law No. 293/2014, provision No. 7 was added to Article 489 of the Penal Code, which penalises a husband who assaults/beats or harms his wife with the aim of fulfilling his marital rights to sexual intercourse. So while law No. 293/2014 did not add the crime of marital rape, it nevertheless permits wives to file a case in respect of physical harm linked to unwanted sex.

Information indicates that before Law No. 293/2014, complaints of marital violence were largely dropped before the cases reached trial. In the few years immediately before the adoption of the law, there was a gradual but slow increase in cases reaching the justice system, largely due to the awareness-raising role of civil society organisations (CSOs). After the adoption of Law No. 293/2014, which led to more acceptance and recognition of the importance of exposing and raising awareness of the prevalence of violence against women generally, there was a marked increase in the number of cases filed for assault linked to the demand for marital sex¹³³, yet this number is still believed to be small in comparison to the actual cases of sexual violence, including rape.¹³⁴ The small number of cases reaching the justice system is believed to be due to many factors. In addition to social rejection and stigma, married women fear losing custody of their children if their husbands were to file for divorce. Women without independent income may be forced to tolerate spousal violence to ensure financial support for themselves and their children. This is an area that requires further research.

Violent acts against a female victim/survivor of rape include killing her by her own family members “to cleanse the name of the family”.

If harm is found under Law No. 293/2014, it is mostly punished as a misdemeanour and is given a lesser penalty than that of rape. Further, while Law No. 293/2014 introduced a mechanism for initiating prompt protection orders in cases of domestic violence, including sexual violence, information from CSOs indicates that, in reality, often these orders take a long time before being issued. In addition, judges and prosecutors often do not consider that the cases at hand require protection orders and court officials are mostly satisfied by a pledge from the perpetrator not to harm the victim/survivor.¹³⁵ The exact nature of this ‘undertaking’ is often unclear and varies by context, but it typically lacks enforceability or survivor safeguards.

Marry your rapist exemption

Another challenge facing women victims/survivors of rape is the lack of coherence of laws in Lebanon. For example, Article 522 of the Penal Code allowed the rapist to escape punishment if he married his victim/survivor, a provision reflected in many other Arab countries too, although these provisions have been gradually repealed. Article 522 was repealed in 2017, after consistent and targeted campaigning by the women’s rights movement. However, another provision in the law with the same effect remained, creating a legal loophole. Article 505 of the Penal Code prohibits sexual intercourse with a minor below the age of 18. However, it allows the perpetrator to escape punishment if he marries his victim/survivor if she is between 15 and 18 years of age, which circumvents other protections in the law against sexual violence against minors.

Even the repeal of Article 522 has not ended impunity for cases of rape in practice. In some cases, the marriage of the rapist to his victim, both with respect to adult women and minor girls, is imposed by the family or clan of the victim/survivor in order to end the matter without a scandal.¹³⁶ This is said to be practised more in rural areas, outside urban centres. Anecdotal information from civil society actors indicates that sometimes justice officials even suggest marriage, despite their obligation to abide by the provisions of the law.

Rape and the so-called 'honour' system

Civil society organisations report that the continued emphasis on linking women's chastity with the so-called 'family honour' often leads to the commission of violence in the name of 'honour' against victims/survivors of sexual violence, even where in some of these cases the rape has been perpetrated by a family member. Violent acts against a female victim/survivor of rape include killing her by her own family members "to cleanse the name of the family". If not killed, often she will be subjected to severe violence by family members, especially a father or brother or husband.¹³⁷ In some cases, she will be forced to marry the rapist or another person who may be violent, criminal, or a drug addict. Having "lost her virginity" due to rape, she will otherwise be considered unmarriageable.

Access to justice

There is a lack of awareness of legal protections and of the processes for submitting criminal complaints generally and in relation to cases of sexual violence particularly. Lawyers are often the first point of contact, either through specialised CSOs or through private practice. Consequently, trained lawyers play important roles in accompanying complainants throughout the process. They work to ensure that all the steps are followed without prejudice to the victim/survivor and that the principle of "do no harm" is fully respected by all parties engaged in the case. However, often, victims/survivors are intimidated and threatened by the perpetrator once they make a complaint. Lawyers play an important protective role in this regard.¹³⁸ This is why CSOs place importance on training specialised lawyers and other members of the legal profession on standards and safeguards related to sexual violence.

There are also structural impediments to justice. Members of the criminal justice system generally lack adequate awareness, training and understanding of issues related to sexual violence crimes and the important role they can play in combating these crimes and ensuring access to justice.¹³⁹ Cases typically take a long time in courts to be resolved and thus far, there have been very few

judgments in favour of the victim/survivor.¹⁴⁰ Some studies and observers indicate that many cases are withdrawn by the victim/survivor or end up not being pursued by prosecutors or closed without judgements, or if they went on to achieve a conviction, perpetrators ended up receiving light sentences.¹⁴¹ This results in mistrust in the system and a reluctance to enter the process.

The judiciary also faces political and other challenges to its independence. Anecdotal information indicates that the judiciary is put under pressure by political and religious leaders who interfere with the process and outcome of cases. In addition, the conservative social beliefs and attitudes of judges affect the way they deal with rape cases. This includes holding gender stereotypical views, such as blaming victims for what they have experienced and making judgments on the basis of the victim's economic and social background and the prevalent social stereotype of the offender.¹⁴² Evidence also indicates that the appointment of judges and the freedom of the members of the judiciary are subject to political interference.¹⁴³

Another important impediment to access to justice is financial. While these cases do not require payment of fees to courts, victims face financial impediments to ensure that experienced lawyers handle their cases. Such lawyers tend to be very costly. Victims/survivors can alternatively benefit from legal aid available through the Bar Association. In such cases, the Bar Association appoints lawyers for the victims/survivors. However, lawyers who are appointed through this process are often still undergoing training or lack adequate experience.

CSOs place importance on training specialised lawyers and other members of the legal profession on standards and safeguards related to sexual violence.

Penalties for rape

Several activists in Lebanon consider that penalties imposed for rape are not proportionate to the severity of the crime. The punishments are even lighter in cases of sexual assault.

The *kafala* system and lack of access to justice for rape

Domestic migrant workers in Lebanon are particularly vulnerable to abuse, including rape, and face additional barriers to justice.¹⁴⁴ One illustrative case is that of Isatta Bah, a 24-year-old migrant domestic worker from Sierra Leone who fled abuse by her employer in Lebanon. After escaping, she and five others were raped by a group of men while seeking transport. Fearing reprisal and lacking legal documentation, she did not report the crime. Her story highlights the extreme vulnerability of migrant workers under the *kafala* system and the barriers they face in accessing justice.¹⁴⁵

The Lebanese Labour Law explicitly excludes domestic workers, generally, including migrant workers, from rights and protections that the Lebanese workers enjoy. Lebanon implements a *kafala* system when it comes to migrant workers, which ties the legal residency of the migrant domestic worker to a contractual relationship with a specific employer. It is a common practice that employers hold onto the passport of their assigned migrant domestic worker, which Lebanese law does not explicitly prohibit.¹⁴⁶ This effectively means that a migrant domestic worker cannot leave her work for any reason before the contract expires, even if her working conditions are abusive or if she has been sexually abused.

Domestic workers who face abuse, including rape, generally do not report their employers to the authorities due to a number of barriers to accessing the justice system, including racism, lack of awareness of how the justice system works and fear of retribution. Racism is

often compounded by language barriers, which further marginalise migrant workers and prevent them from properly communicating their experiences or seeking help. With their passports effectively confiscated and their movements monitored and restricted, they do not have the wherewithal to report these cases even if they did not fear doing so. If they flee the house of their abusers, instead of accessing justice and support, they may lose their legal residency status and thus risk arrest, imprisonment, fines or deportation. They will be unable to obtain new employment, because their residency and employment conditions under the *kafala* system are connected to the specific employer they are trying to leave. They may even be falsely accused of theft or other such crimes in retaliation by their employers. They most often lack access to legal counsel, especially given their already low income and the likelihood of losing their job, leaving them effectively at the mercy of a discriminatory justice system.

Domestic workers who face abuse, including rape, generally do not report their employers to the authorities due to a number of barriers to accessing the justice system, including racism, lack of awareness of how the justice system works and fear of retribution.

Civil society activism on rape

Lebanese civil society has played a vital role in combating violence against women and girls, including sexual violence, both in private and public spheres. Among these organisations are Abaad – Resource Centre for Gender Equality – and Kafa¹⁴⁷ – Enough Violence and Exploitation. Both organisations provide direct support and services to survivors, and each operates a 24-hour helpline. They raise awareness of what victims/survivors should do when subjected to sexual violence and work with various actors on ways to change social attitudes and beliefs. The ABAAD media campaign titled "A White Dress Doesn't Cover the Rape"¹⁴⁸ helped raise awareness and mobilise public awareness about the injustice embedded in Article 522. The campaign utilised various strategies, including public demonstrations, social media activism with the hashtag #Undress522 and impactful visuals such as women wearing blood-stained wedding dresses to symbolise the injustice of the law. These efforts garnered significant attention and support, adding pressure on MPs to repeal Article 522 which allowed rapists to avoid prosecution by marrying their victims.¹⁴⁹

Thanks to the concerted efforts of these and other Lebanese women's rights organisations, such as LECORVAW¹⁵⁰ and RDFL¹⁵¹, Article 522 of the Lebanese Penal Code was successfully repealed in 2017.¹⁵² Furthermore, these civil society organisations expose the problem and its extent and collect evidence through testimonies and surveys. They analyse the social and legal context as well as impediments to access to justice by victims/survivors. Some of the cases of rape that the organisations handle involve incest or marital rape.¹⁵³

The organisations are also active in influencing legislative reform, including the need to criminalise all sexual crimes and raise punishments for sexual crimes, including through reforming the domestic violence law.

The law

- ◆ Article 503 of the Lebanon Penal Code No. 340 of 1943, as amended, criminalises compelling another person by force and threat to have sexual intercourse. The Article specifically excludes the wife from this provision in case of forced and/or non-consensual sexual intercourse with her spouse (marital rape).
- ◆ Article 504 of the Penal Code criminalises having sexual intercourse with a person, other than the wife, who is unable to resist because of physical or mental impairment or because of deception used.
- ◆ Article 505 criminalises sexual intercourse with a person below the age of 18 and increases the punishment if the victim/survivor is below the age of 15. However, Article 505 allows the perpetrator to escape punishment if he marries his victim/survivor if she is between 15 and 18 years of age.
- ◆ Article 506 criminalises having sexual intercourse with a minor between the ages of 15 and 18 if the perpetrator is an ancestor, has legal or actual authority over the victim/survivor, or is related in law or is a servant, or a public employee, or a religious cleric, or a head or employee of an employment office.
- ◆ Articles 507 – 510 criminalise sexual assault and follow a similar structure to Articles 503-506.

Chapter 6:

Recommendations

This report has highlighted a number of positive aspects of the rape laws and practices of LAS countries, as well as several areas where reform is needed to ensure greater compliance with international human rights standards. States have the responsibility to take all appropriate measures to eliminate discrimination against women by any person, organisation or enterprise, both in the public and private sphere, as highlighted under international law, such as CEDAW and the CRC. On the basis of this analysis, Equality Now recommends that LAS States undertake a number of reforms to their sexual violence legislation, policies and practices in the following areas:





6.1 Definitions of rape

- ◆ Definitions of rape must be based on free and voluntary consent, assessed in the context of surrounding circumstances. Any definition centred on force or the threat of force should be repealed. Additional force can be considered an aggravating factor in determining punishment.
- ◆ Definitions of rape must recognise a broad range of coercive circumstances where consent cannot be truly voluntary or genuine. This includes situations where the perpetrator exploits a position of power, trust, influence, or dependency.
- ◆ Definitions of rape must include all acts of penetration, however slight, without the victim's full and informed consent, covering non-consensual vaginal, anal, or oral penetration of a sexual nature by any bodily part or object.
- ◆ Definitions should consider a person incapable of giving genuine consent if they are under the age of 16, unconscious, asleep, intoxicated by drugs or alcohol, or affected by illness, injury, or otherwise rendered particularly vulnerable or in any condition that impairs their ability to make a free and informed decision. This includes individuals in situations of dependency, coercion, or heightened vulnerability.
- ◆ Laws, policies and practices must not require women to prove physical resistance to rape or assume consent due to the absence of physical resistance.
- ◆ Rape by an adult perpetrator of a minor victim/survivor related to the perpetrator by blood, marriage, adoption, fostering or other analogous familial affiliation should be specifically criminalised by an explicit provision or through aggravated penalties for rape.
- ◆ Criminal law and procedure provisions on rape must protect all persons without discrimination, including those from marginalised groups, for example based on race, religion, ethnicity, sexuality, gender identity, disability, age, migrant or refugee or other status, and adopt a gendered approach recognising that most victims are women and girls.
- ◆ Provisions excluding marital rape from prosecution must be repealed. Marital rape should be criminalised through aggravated penalties or explicit provision. Sexual violence should be considered a criminal offence in domestic violence laws.
- ◆ Rape as a form of gender-based violence should be framed as a violation of bodily integrity, autonomy, privacy, health and women's equality before the law. It should not be framed as a crime against morality, public decency, honour, family, or society.

6.2 Investigation, punishment and access to justice

Prompt and impartial investigations:

- ◆ Rape cases should be investigated promptly, thoroughly and impartially without prejudice to the principles of justice. Evidence should be properly collected and thoroughly analysed and not rely solely on forensic or other physical evidence (or lack of it). Judicial proceedings should be carried out in a timely manner without undue delay.

Ex officio investigation and prosecution:

- ◆ All stages of criminal proceedings should centre on victims/survivors.
- ◆ All investigations and prosecutions of rape should be conducted ex officio, independent of the victim's/survivor's report or accusation, and with confidentiality. Investigations should be continued even if victims/survivors withdraw their statements to ensure there has been no pressure to permit perpetrator impunity.

Proportionate sanctions:

- ◆ Rape should be sanctioned proportionate and commensurate with the gravity of the crime. Sentencing guidelines should ensure consistency. The use of fines as the only sanction should be abolished.
- ◆ The death penalty or any physical mutilation as a punishment for rape should be revoked and/or not introduced.

Non-consensual acts:

- ◆ All non-consensual acts of a sexual nature involving penetration should be punished equally and commensurately with the gravity of the crime, regardless of the categorisation of the crime in the law.

Prohibition of reconciliation:

- ◆ Reconciliation in cases of rape should be prohibited insofar as it leads to effective impunity for the crime.

Abolish perpetrator impunity:

- ◆ Laws or policies that grant perpetrators impunity if they marry their victims/survivors or reach some other accommodation, such as payment, should be abolished.

Aggravating factors:

- ◆ The law should include aggravating factors that increase the sentence for perpetrators of rape, such as:
 - ▶ Taking advantage of a person in a position of particular vulnerability or dependency, including as a consequence of kinship, or generally exploiting a position of power.
 - ▶ Rape committed against a former or current spouse or partner.
 - ▶ Rape committed by a member of the family or a person cohabiting with the victim.

- ▶ Rape of a pregnant woman or girl.
- ▶ Rape committed by two or more people acting together.
- ▶ Repeated offences or related offences.
- ▶ Rape preceded or accompanied by extreme violence or threats.
- ▶ Rape committed against a victim/survivor who for any reason is imprisoned or detained.
- ▶ Rape committed with use or threat of use of a weapon.
- ▶ Causing the victim/survivor to take drugs, alcohol, or other substances to maintain control.
- ▶ Filming or photographing the rape, sharing pictures or film of the rape or extorting or attempting to extort money or other benefit by threatening to share them.
- ▶ Rape resulting in severe physical or psychological harm, disability, death, pregnancy, or sexually transmitted infection.
- ▶ Rape committed with an additional discriminatory motive against a victim/survivor because of race, religion, ethnicity, sexuality, gender identity, disability, age, migrant or refugee or other status.

Repeal harmful procedures, laws and policies:

- ◆ Any inappropriate, re-victimising and unscientific requirements said to prove rape, such as virginity testing, should be removed. Protocols should be developed for victim-centred, gender sensitive health and forensic tests in rape cases.
- ◆ Laws that allow crimes committed in the name of so-called ‘honour’ and other harmful practices, which often result in women being killed by relatives or accused of having sexual relations outside marriage, should be revoked.
- ◆ Criminal and medical processes and procedures should be centred around victims/survivors, focusing on protection and avoiding re-victimisation and re-traumatisation. They should be coordinated to ensure collaboration between national and local agencies, healthcare providers, law enforcement, social services and others in partnership with specialist civil society organisations working to address or support victims/survivors of sexual violence to ensure such victims/survivors receive wrap-around support throughout, whether or not they decide to pursue a criminal case.
- ◆ Laws, policies and procedures related to access to justice should be reviewed to ensure they do not contain direct or indirect discrimination against women, including gendered stereotypes, stigma and patriarchal cultural norms.

In Search of Justice: Rape laws in the Arab States

- ◆ No adverse conclusions or deductions should be drawn from delays in reporting rape.
- ◆ The implementation of laws relating to rape should be regularly monitored to ensure they are properly carried out. This includes monitoring of discriminatory repealed laws or provisions to ensure no exceptions are practised or tolerated, particularly with respect to so-called 'honour' crimes or laws exonerating rapists if they marry their victims.
- ◆ All victims should feel safe to report sexual violence and no other laws in a country should be used to punish those who have come forward.

Training for professionals:

- ◆ Protocols should be developed and regular and specific training for law enforcement personnel, the judiciary, health care providers, social workers and others on proper victim-centred, gender-sensitive procedures should be carried out and refresher courses should be mandatory on rape as a human rights violation and how to understand consent and gender-based violence generally.

Reproductive health support:

- ◆ Safe reproductive health support for all victims/survivors of rape including incest should be provided, including safe abortion and other services.

6.3 Rape of children

Minimum age of marriage:

- ◆ Legislation must set the minimum age of marriage at 18 without any exceptions, in line with international human rights standards.

Punishments for violators:

- ◆ The law must impose clear punishments on those who marry children, their guardians, and anyone who facilitates or conducts marriages in violation of the minimum age for marriage.

Marriage registration and monitoring:

- ◆ The law must require that all marriages be registered to facilitate monitoring of the law's implementation.
- ◆ Implementation of the law on child marriage must be monitored continuously to ensure exceptions are not practised or tolerated.

6.4 Rape of women and girls with disabilities

Consent:

- ◆ Victim-centred guidelines must be put in place on how consent should be understood, including in relation to victims/survivors with disabilities.

Access to justice:

- ◆ Women and girls with disabilities who are victims/survivors of sexual violence must be provided with all reasonable and procedural accommodations necessary to report incidents of sexual violence and to access the criminal justice process. This must cover physical disabilities, for example with respect to wheelchair users or people who are seeing or hearing impaired, and those with mental or psycho-social disabilities.

Training for law enforcement:

- ◆ All criminal justice professionals, including investigators, prosecutors, judges, lawyers and forensic and medical experts, should receive sufficient training and guidance for working with and providing support to victims/survivors of rape, including and particularly to those with disabilities, which includes addressing all negative stereotypes.

Support services:

- ◆ Victim-centred and age- and disability- specific support services for victims/survivors of sexual violence, including shelters, crisis centres and measures for rehabilitation and social reintegration, should be put in place and made easily and freely accessible.

6.5 Awareness raising and training

Awareness campaigns:

- ◆ Awareness-raising campaigns should be implemented in cooperation with specialist civil society organisations to prevent violence against women and girls.
- ◆ Social and cultural practices and attitudes that perpetuate gender-based discrimination and influence social acceptance of gender-based violence should be addressed.
- ◆ Media and educational guidelines should be developed that promote accurate, rights-based information on consent and rape.

Combating myths and stereotypes:

Concrete protocols for professionals and other stakeholders should be developed to address harmful myths and stereotypes including those that:

- ◆ Prohibit "virginity testing" and any notion that virginity or lack of it has relevance to a claim of sexual violence.
- ◆ Make sure that no attempts are made by duty bearers to discredit the claims of a victim/survivor based on negative inferences regarding what she was wearing, her behaviour, or sexual history.
- ◆ Shift the focus of accountability to perpetrators and reject victim-blaming.

- ◆ Ensure rape is understood as a crime against personal autonomy rather than family 'honour'.
- ◆ Challenge stereotypes that portray victims/survivors as immoral or unreliable.
- ◆ These protocols should be incorporated into the regular training for medico-legal professionals and others state officials who are in contact with victims/survivors of rape and sexual violence.

6.6 Research and data collection

Data collection:

- ◆ Official disaggregated statistics on the prevalence of sexual violence crimes against women and girls should be collected and made publicly, freely and easily available.

Analysis of cases:

- ◆ Data on reported cases, prosecutions and convictions should be collected and analysed. They should be disaggregated to include:
 - ▶ The sex/race/ethnicity/nationality status/immigration status/ religion/sexuality/disability/gender identity and age of the perpetrators and victims/survivors
 - ▶ Whether the violence was committed in the context of marriage or an intimate partner relationship or any other relationship between the perpetrator(s) and the victim/survivor
 - ▶ Whether the sexual violence was linked to other forms of violence against women and girls, including but not limited to femicide, disappearance, forced pregnancy and the like
 - ▶ The number of perpetrators accused and those convicted on each occasion of rape;
 - ▶ The number of cases reported
 - ▶ The time taken to report a case
 - ▶ The time taken to conclude a case
 - ▶ The number of cases prosecuted
 - ▶ The number of convictions and the conviction rate
 - ▶ The penalties given on conviction
 - ▶ The reasons for
 - ▷ Decisions to stop investigations
 - ▷ Decisions not to prosecute

- ◆ The effectiveness of measures to prevent, punish and eradicate sexual violence;
- ◆ The compensation paid to victims/survivors; and
- ◆ The measures taken, including funds expended, to support:
- ◆ Services to victims/survivors;
- ◆ Education measures to reduce rape myths and prejudicial stereotypes and secure greater access to justice in the criminal justice system; and
- ◆ Education measures in schools and the broader community on healthy sex and relationships.

6.7 International standards

Adherence to international human rights standards:

- ◆ All LAS members should take note of and comply with all treaty body recommendations, including those that suggest review and amendment or repeal of national legislation and/or procedures that conflict with State obligations under international human rights standards with respect to sexual violence.
- ◆ All LAS members should issue invitations to UN human rights mechanisms, especially those related to sexual and gender-based violence, in order that they might learn more about good practice and collaborate on ways to improve their systems.

Accession to conventions:

- ◆ Sudan and Somalia should accede to CEDAW as the remaining two LAS members that are not parties to the Convention.
- ◆ All LAS members should accede to the Istanbul Convention and the remaining core international treaties they have not ratified.

Reporting:

- ◆ All LAS members should ensure the timely submission of reports to the CEDAW Committee and all other treaty bodies.

6.8 Resource allocation

- ◆ All LAS members should allocate appropriate financial and human resources for the adequate implementation of laws, policies, measures and programmes to prevent, combat, prosecute and punish the perpetrators of the crime of rape.
- ◆ All LAS members should allocate appropriate financial resources for the support and rehabilitation of all victims/survivors of rape.

Annex 1:

Definitions and penalties for rape and sexual assault

Country	Consent-based definition of rape in Law? Yes/No/Unclear	Is marital rape criminalised explicitly or through aggravated circumstances? Yes/No/Unclear	Does the law offer mitigation for the crime of rape?	Penalty - this reflects the minimum to a maximum based on aggravating factors
Algeria	No.	No.	Yes.	Rape: Min 5 years - Max 20 years Sexual Assault: Min 2 years - Max death penalty
Bahrain	No.	No.	No.	Rape: Min life imprisonment - Max death penalty Sexual Assault: Min 10 years - Max death penalty
Comoros	Unclear.	No.	No.	Rape: Min 5 years - Max 10 years Sexual Assault: Not clear/defined
Djibouti	Yes.	Yes.	Unclear.	Rape: Min 10 years - Max life imprisonment Sexual Assault: Min 3 years & fine - Max 10 years
Egypt	Yes, partially.	No.	No.	Rape: Min life - Max death penalty Sexual Assault: Min 7 years - Max life imprisonment
Iraq	Yes, partially.	No.	Yes.	Rape: Min 5 years - Max life imprisonment Sexual Assault: Min 7 years - Max 10 years
Jordan	Yes, partially.	No.	Yes.	Rape: Min 5 years of temporary hard labour - Max death penalty Sexual Assault: Min 4 years - Max 7 years (increases again by a third and a half of the ruled punishment in other aggravating circumstances)
Kuwait	No.	No.	No.	Rape: Min life imprisonment - Max death penalty Sexual Assault: Min not defined - Max 15 years
Lebanon	No.	No.	No.	Rape: Min 5 years with hard labour - Max 12 years with hard labour Sexual Assault: Min 4 years - Max 10 years
Libya	No.	No.	Unclear.	Rape: Min 5 years - Max 15 years

Country	Consent-based definition of rape in Law? Yes/No/Unclear	Is marital rape criminalised explicitly or through aggravated circumstances? Yes/No/Unclear	Does the law offer mitigation for the crime of rape?	Penalty - this reflects the minimum to a maximum based on aggravating factors
Mauritania	No.	No.	No.	Rape: Min lashes and imprisonment with hard labour - Max Stoning The law in Mauritania does not have provisions for indecent acts or sexual assault.
Morocco	Yes.	No.	No.	Rape: Min 5 years - Max 20 years Sexual Assault: Min 5 years - Max 10 years
Oman	Yes.	Unclear.	No.	Rape: Min 10 years - Max life imprisonment Sexual Assault: Min 1 year - Max 7 years
Palestine	West Bank: Yes. Gaza: Yes.	West Bank: No. Gaza: No.	West Bank: No. Gaza: Unclear.	Rape: Min 5 years Sexual Assault: Min 4 years
Qatar	No.	No.	Yes.	Rape: Min life imprisonment - Max death penalty Sexual assault: Min 15 years - Max life imprisonment
Saudi Arabia	Unclear. Penal Code not codified.	No.	No.	Rape: Min lashing - Max death penalty Sexual Assault: Fine/imprisonment/both
Somalia	No.	No.	No.	Rape: Min 5 years - Max 15 years Sexual Assault: Min 1 year - Max 5 years
Sudan	Yes, partially.	No.	No.	Rape: Min 20 years - Max life imprisonment. Sexual Assault: Min one year and/or fine and or lashes (up to 40 lashes) or any two punishments.
Syria	No.	No.	No.	Rape: Min 9 years with hard labour - Max 21 years. Sexual Assault: Min 12 years with hard labour - Max 18 years with hard labour.
Tunisia	Yes.	No.	No.	Rape: Min 20 years - Max life sentence Sexual Assault: Min 6 years - Max 12 years
UAE	Yes.	No.	No.	Rape: Min life sentence - Max death penalty Sexual Assault: Min 5 year - Max death penalty
Yemen	Yes.	No.	No.	Rape: Max of 7 years - May increase up to 15 years for further aggravating circumstances. Sexual Assault: Min not defined - Max 5 years

Endnotes

- 1 International Criminal Court (ICC), Elements of Crimes, Article 7(1)(g)-1 and Article 8(2)(e)(vi)-1, ICC-ASP/1/3, September 2002
- 2 CEDAW Committee General Recommendation No. 35 on gender-based violence against women, updating General Recommendation No. 19, 2017. See also above note on terminology.
- 3 ABAAD. “#NoShameNoBlame Campaign.” ABAAD – Resource Centre for Gender Equality, <https://www.abaadmena.org/campaigns-advocacy/noshamenoblame/>.
- 4 UN ESCWA produced country studies for most Arab countries titled [Gender Justice and the Law](#). A portal of regional analysis and country entries is available [here](#). Country reports include some of the aspects of gender-based violence against women and girls covered in this Report.
- 5 UN Office of the High Commissioner for Human Rights (OHCHR), Status of submission of reports by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women, available at: https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Countries.aspx
- 6 Notably, however, ‘marry your rapist’ laws have received significant attention in recent years, as has, to some extent, the application of Islamic law in relation to proving rape.
- 7 OHCHR explains that a [standing invitation](#) is “an open invitation extended by a Government to all thematic special procedures. By extending a standing invitation States announce that they will always accept requests to visit from all special procedures.”
- 8 While many countries that have ratified CEDAW have lodged a reservation against Article 2 which mandates that States Parties condemn all forms of discrimination against women and agree to pursue a policy of eliminating such discrimination by all appropriate means. [The CEDAW Committee holds the view that Article 2 is central to the objects and purpose of the Convention](#). The Convention itself states in Article 28.2 that “A reservation incompatible with the object and purpose of the present Convention shall not be permitted.”
- 9 ESCWA, [Reducing inequalities - Providing solutions to reduce all forms of inequality](#), (front page).
- 10 See for example Abaad’s campaign: “[Deyman Waata! ABAAD campaign for 16 Days of Activism to end violence against women and girls 2021](#)”, which argues that “it is always the right time”, in the face of continued delay in addressing violence against women and girls. [Abaad - Resource Centre for Gender Equality](#) is a prominent Lebanese feminist organisation that aims to achieve gender equality.
- 11 United Nations Economic and Social Commission for Western Asia (ESCWA). (2017). *The Drivers and Impact of Conflict on the Sustainable Development Agenda in the Arab Region: A snapshot of human, socioeconomic and structural impacts with a focus on regional and cross-border effects*
- 12 See for example CEDAW Committee, “[General recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19](#)”, CEDAW/C/GC/35, 26 July 2017, para. 14.
- 13 UNICEF, Eliminating Female Genital Mutilation: A Call to Action, February 2023, <https://www.unicef.org/documents/eliminating-female-genital-mutilation>.
- 14 UN ESCWA, The Impact of Conflict on Child Marriage and Adolescent Fertility, 2020, <https://www.unescwa.org/publications/impact-conflict-child-marriage-adolescent-fertility>.
- 15 See further discussion on this in The Arab Institute for Women, “[International Conference: “Anti-Feminist Backlash in the Global South: Cross-Regional Discussions, Strategies, and Innovative Practices”](#)”, 3 July 2023.
- 16 Tunisia’s Organic Act No. 58 (2017) on the elimination of violence against women repeals and replaces provisions in Tunisia’s Penal Code relating to sexual violence (Articles 227 and 227 (bis), and 228). Despite the Organic Act, these articles continue to be listed in the Penal Code under Crimes Against Morality.
- 17 How #MeToo and #TimesUp Are Helping Egyptian Women Break the Silence Around Sexual Violence." Time, <https://time.com/5280726/how-metoo-and-timesup-are-helping-egyptian-women-break-the-silence-around-sexual-violence/>
- 18 See further in UNDP, “Gender Justice and Equality before the Law: Analysis of Progress and Challenges in the Arab States Region”, 2019, page 25.
- 19 A body of moral principles regarded as a basis for all human conduct, but without specific definition, being interpreted by different people in different ways.
- 20 **Algeria** (Article 1 of the Civil Law), **Bahrain** (Article 1 (b) of the Civil Law), **Egypt**, (Article 1 of the Civil Law), **Iraq**, (Article 1 of the Civil Law), **Jordan** (Article 2 of the Civil Law), **Lebanon** (Article 4 of the Civil Procedures Code), **Palestine** (Article 1(2) of the Civil Law), **Syria** (Article 1(2) of the Civil Law) and **Yemen** (Article 1 of the Civil Law). (Information derived from review of country entries in ESCWA’s [Gender Justice and the Law Portal](#), and the relevant text of the law in each country.)
- 21 See for example “[Report of the Independent Expert on the situation of human rights in Somalia](#)”, A/HRC/51/65, 19 August 2022, paras. 44, 47 and 72, and Sharanjeet Parmar, “[An Overview of the Sudanese Legal System and Legal Research](#)”, Global Lex, January 2007.

22 Iraq has a combination of laws that apply in the country. Laws by the Federal Government of Iraq are applicable in all of Iraq, unless amended by laws issued by the Kurdistan Regional Government (KRG) for the Kurdistan Region of Iraq (KR-I). There are also laws that are issued exclusively by the KR-I which apply in KRG.

23 In Palestine, the Jordanian penal law that existed before 1967 continues to apply in the West Bank, as amended by subsequent Palestinian legislation. The Egyptian penal law that existed before 1967 continues to apply in the Gaza Strip, as amended by subsequent Palestinian legislation.

24 CEDAW Committee, “[Concluding observations on the combined fourth and fifth periodic reports of Lebanon](#)”, CEDAW/C/LBN/CO/4-5, 24 November 2015, para. 45.

25 UN Women, Global Gender Equality Constitutional Database

26 For more information, please see UN Women: Global Gender Equality Constitutional Database

27 This refers to the whole community of Muslims bound together by ties of religion. https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2F39%2F3&Lang=en

28 Due to the collapse of the Assad regime on 8 December 2024, a new constitution is expected to be drafted by the Transitional Government by 2025.

29 The status of ratifications of, and reservations to, all UN treaties can be found on OHCHR's interactive dashboard.

30 The State of Palestine ratified CEDAW, but has not yet published it in the national Gazette. Palestine has not taken adequate steps to harmonise its national law with CEDAW. Information from the State of Palestine to CEDAW states that “efforts to ensure swift publication have been hampered by campaigns against the Convention and its provisions and its rejection by certain segments of society.” [Information received from the State of Palestine on follow-up to the concluding observations on its initial report](#), CEDAW/C/PSE/FCO/1, 19 August 2020, para. 14.

31 The status of ratifications of, and reservations to, all UN treaties can be found on [OHCHR's interactive dashboard](#).

32 Other States that continue to have reservations to Article 9 are Bahrain, Jordan, Kuwait, Lebanon, Oman, Qatar, Saudi Arabia, Syria and UAE.

33 CEDAW Committee, “[General recommendation No. 33 on women's access to justice](#)”, CEDAW/C/GC/33, 3 August 2015, para 41.

34 CEDAW Committee, “[General recommendation No. 33 on women's access to justice](#)”, CEDAW/C/GC/33, 3 August 2015, para 42.

35 Republic of Lebanon, Law No. 293 on the Protection of Women and Other Family Members from Domestic Violence, 2014, <https://kafa.org.lb/sites/default/files/2021-10/law-293-english.pdf>

36 This law is also applicable in the West Bank in Palestine, excluding any amendments to the law that were made in Jordan post 1967.

37 This is referred to in Arabic as *واقع/مواقعة* in the Bahrain Penal Code of 1976 (Article 344); Palestine, Jordanian 1960 Penal Code (Article 292 (1)), applicable in the West Bank, and Penal Code of 1936 (Article 152 (1.A)) applicable in the Gaza Strip; Libya Penal Code of 1953 (Article 407); Morocco Penal Code of 1962 (Article 486); Kuwait Penal Code of 1960 (Article 187); Jordan Penal Code of 1960 (Article 292 (1)); Iraq Federal Penal Code of 1969 (Article 393 (1)); Egypt Penal Code of 1937 (Article 267). Other countries refer to *جامع/مجامعة/جماع* in their laws: Syria Penal Code of 1949 (Article 489 (1)); Lebanon Penal Code of 1943 (Article 503).

38 Various expressions are used in Arabic: *اعتداء على عرض شخص* in the Penal Codes of Bahrain, Iraq; *مناف للحياة / مناف للحشمة* in the Penal Codes of Syria, Lebanon, Palestine Penal Code (Gaza Strip); *ارتكاب الفحشاء / الأفعال الفاحشة* in the Penal Code of Sudan; *هتك العرض* in the Penal Codes of Algeria, Palestine (the West Bank), Libya, Morocco, Kuwait, Jordan and Egypt.

39 Tunisia's Organic Act No. 58 (2017) on the elimination of violence against women, sexual violence is defined as any action perpetrated or statement made with the aim of subjecting a woman to the sexual desires of the perpetrator, or to the sexual desires of another individual, through the use of coercion, deception, pressure or any other method to weaken or overcome the will of the victim, irrespective of the perpetrator's relationship to the victim. This Organic Act amended Article 227 of the Penal Code. According to the amendment, the definition of the crime of rape in the Penal Code, is “any act that leads to sexual penetration, whatever its nature and the means used, against a female or male without their consent”.

40 Article 398(1) of the 1962 of Somalia's Penal Code punishes sexual intercourse with the opposite sex by force or threat. This means that unlike in most other countries, rape in Somalia would relate to male or female as victims/survivors or perpetrators.

41 A number of family status laws in LAS countries stipulate that engaging in a sexual relationship with her husband is a woman's marital duty.

42 Interviews conducted with legal practitioners from Egypt.

43 See for example the countries of additional focus segment on Egypt.

44 Organisation for Economic Co-operation and Development (OECD), *Tackling Violence Against Women in the Middle East and North Africa* (Paris: OECD, 2024)

45 UN Women, *Situational Analysis of Women and Girls in the MENA and Arab States Region* (UN Women Regional Office for the Arab States, 2021), <https://arabstates.unwomen.org/en/digital-library/publications/2021/11/situational-analysis-of-women-and-girls-in-the-mena-and-arab-states-region>.

46 Ritchie, Jessica, and Marianne Doherty. "Medico-Legal Evidence: Survivor Relational Autonomy and Informed Consent in Sexual Assault Examinations." *Feminist Legal Studies*, 2025 <https://doi.org/10.1007/s10691-025-09564-5>

47 Interviews conducted with legal practitioners from Egypt.

48 See World Health Organisation, **Interagency statement calls for the elimination of "virginity-testing"**, 17 October 2018. The statement stresses that there is **no scientific or clinical basis supporting** "virginity testing", clarifying that "there is no examination that can prove a girl or woman has had sex – and the appearance of a girl's or woman's hymen cannot prove whether they have had sexual intercourse, or are sexually active or not."

49 Equality Now. (2017). *The World's Shame: The Global Rape Epidemic*.

50 UNFPA Arab States. (2022). *Gender-Based Violence Advocacy Brief*. Retrieved from <https://arabstates.unfpa.org/en/publications/2022-gender-based-violence-advocacy-brief>

51 CEDAW Committee, "[General recommendation No. 35 on gender-based violence against women](#)", CEDAW/C/GC/35, 26 July 2017, para 29 (a)

52 These are Bahrain, Egypt, Iraq, Jordan, Kuwait, Mauritania, Qatar, Saudi Arabia, Sudan and the United Arab Emirates.

53 According to Britannica, "Shari'a is the fundamental religious concept of Islam—namely, its law.

The religious law of Islam is seen as the expression of God's command for Muslims and, in application, constitutes a system of duties that are incumbent upon all Muslims by virtue of their religious belief. Known as the shari'a (literally, "path leading to the watering place"), the law represents a divinely ordained path of conduct that guides Muslims toward a practical expression of religious conviction in this world and the goal of divine favour in the world to come.

54 See "[Revisiting Islamic Punishment and its Implementation in the Contemporary World](#)", International Conference on Humanity, Law and Sharia (ICHLaSh). Core, 14-15 November 2018.

55 In its fifth periodic report submitted by Saudi Arabia states: "Saudi Arabia applies the Islamic sharia in all its affairs, as enshrined in the Basic Law of Governance promulgated by Royal Order No. 90 of 27 Sha'ban A.H. 1412 (2 March A.D. 1992). The Basic Law of Governance covers the form, principles and authorities of the State." OHCHR, [fifth periodic report submitted by Saudi Arabia](#), CEDAW/C/SAU/5, 22 June 2023, para. 6.

56 Qisas - in the context of rape, only likely to be used if rape has resulted in death or serious injury and would normally involve the paying of compensation to the family of the victim; Hudud - in the context of rape this could mean flogging or stoning, but only if exceptionally high evidentiary standards are met; Ta'zir - if Qisas or Hudud don't apply, these punishments are at the judge's discretion and could include imprisonment, fines, or corporal punishment, depending on the severity of the crime and the legal system of the country.

57 On 2 July 2025, Kuwait enacted Decree-Law No. 70 of 2025, abolishing Article 182 of the 1960 Penal Code which allowed a kidnapper to escape punishment if he married the person he had kidnapped. Known as the 'marry your rapist' clause, it allowed perpetrators of abduction and sexual violence to evade accountability. Kuwait has thus become the latest Arab country that repealed similar provisions following Egypt (1999), Morocco (2014), Tunisia (2017), Jordan (2017), Lebanon (2017), Palestine (2018) and Bahrain (2023).

58 Countries that have provisions known as 'marry your rapist' (زواج المغتصب للمغتصة) include Syria (Article 508 of the Penal Code); Libya (Article 424 of the Penal Code); Lebanon (Article 505 of the Penal Code (a loophole remains in the law following the 2017 abolition of the general provision) in connection with persons between the ages of 15-18); Iraq (Article 398 of the Penal Code); Algeria (Article 326 of the Penal Code, which relates to kidnapping specifically).

59 Article 522 of the Lebanese Penal Code allowed the perpetrator of rape of an adult to escape his punishment. This was repealed in 2017. However, another provision in the law with the same effect remained, creating a legal loophole. Article 505 of the Penal Code allows the perpetrator to escape punishment if he marries his victim/survivor aged between 15 and 18 years.

60 See for example CEDAW Concluding Observations "Concluding observations on the fifth periodic report of Kuwait", CEDAW/C/KWT/CO/5, 22 November 2017, para. 27 (b); and "Concluding observations on the sixth periodic report of Jordan", CEDAW/C/JOR/CO/6, 9 March 2017, para 34 (a).

61 <https://www.euromedrights.org/wp-content/uploads/2016/12/EMHRN-Factsheet-VAW-Egypt-EN-2016.pdf> page 4

62 See Human Rights Watch Submission to the CEDAW Committee, Review of Mauritania, 84th Session, January 2023.

63 See for example CEDAW Committee. "Concluding observations on the fourth periodic report of Mauritania" CEDAW/C/MRT/CO/4, 2 March 2023, para. 24.

64 See for example CEDAW Committee, "Concluding observations on the combined third and fourth periodic reports of Saudi Arabia" CEDAW/C/SAU/CO/3-4, 14 March 2018, para. 33.

65 CEDAW Committee, Concluding Observations, Mauritania, 2 March 2023, para 24.

66 Human Rights Watch, "Mauritania: Rape Survivors at Risk," September 5, 2018, <https://www.hrw.org/news/2018/09/05/mauritania-rape-survivors-risk>.

67 For example, in respect of the United Arab Emirates, the CEDAW Committee noted that judges may still impose on perpetrators of so-called 'honour killings' a minimum one-year sentence in cases of murder where the victim's family accepts payment of diya. (See [CEDAW Concluding Observations, UAE](#), 2022, para. 34)

68 For example, the report "Do Women Actually Commit Suicide" by the Women's Centre for Legal Aid and Counselling, which analysed femicides in Palestine in 2021-2022, suggested that some so-called 'honour' killings following rape and sexual

assault were recorded as suicides to circumvent repeal of the law which had allowed for mitigation of punishment for killings based on ‘honour’.

69 A Mahram in Islamic Law is an individual whom one is permanently prohibited from marrying.

70 This includes Egypt, Iraq, Morocco, Sudan and United Arab Emirates.

71 This includes Algeria, Comoros, Djibouti, Jordan, Oman, Palestine (West Bank & Gaza Strip), Qatar and Tunisia.

72 This includes Lebanon, Libya, Palestine (West Bank: between 15-18; Gaza Strip: above 15, generally below 18 is covered by the Child Protection Act), Syria (15-18 and below 15), Yemen (various ages for males and females below the age of 15)

73 See Committee on the Rights of Persons with Disabilities, General Comment No. 3 (2016) on women and girls with disabilities, CRPD/C/GC/3, para. 44. See also: Women Enabled International (2021), *Accountability Matters: Redressing Violence Against Women with Disabilities*.

74 United Nations Population Fund (UNFPA), *Women and Young Persons with Disabilities: Guidelines for Providing Rights-Based and Gender-Responsive Services to Address Gender-Based Violence and Sexual and Reproductive Health and Rights*, 2021.

75 References to aggravating factors in case of rape of persons with a learning disability can be found in the penal codes of Djibouti, Jordan, Lebanon, Libya, Morocco, Oman, Palestine (West Bank), Qatar, Tunisia and United Arab Emirates.

76 While it is important to look at any additional vulnerabilities of those with disabilities to sexual violence, particularly because of the high levels of sexual violence against them and because they may be specifically targeted by perpetrators more secure of their impunity for such actions, many people with intellectual disabilities have the capacity to consent to sexual activity under non-exploitive conditions and law enforcement (and others) should be careful to avoid stereotyped ideas that add to the discrimination against people with disabilities.

77 This implicitly and stereotypically suggests that victims without these conditions are able to resist rape.

78 These include the penal codes of Djibouti, Jordan, Lebanon, Libya, Morocco, Oman, Tunisia, Palestine (West Bank), Syria and United Arab Emirates.

79 This includes the penal codes of Bahrain, Iraq, Lebanon and Oman.

80 This includes the penal codes of Bahrain, Djibouti, Iraq and Yemen.

81 This includes the penal codes of Bahrain, Iraq, Lebanon and Morocco.

82 This includes the penal code of Bahrain, Iraq, Lebanon, Oman and the United Arab Emirates.

83 This includes the penal code of Yemen.

84 This includes the penal codes of Bahrain, Comoros, Djibouti,

Lebanon, Oman, the United Arab Emirates and Yemen.

85 This includes the penal codes of Djibouti and Tunisia.

86 EuroMed Feminist Initiative, *Indicator 10: The existing laws, including family laws whether civil or customary*, Regional Index on Violence Against Women and Girls, 2020. Available at: <https://www.efi-rcso.org/index-page/vawg/indicator-10the-existing-laws-including-family-laws-whether-civil-or-customary>

87 Saudi Arabia has regulations for protection from harm, including sexual harm, issued in 2013. The laws of Comoros (Law No. 22 of 2014); Algeria (Law No. 19 of 2015); and Jordan (Law No. 15 of 2017) criminalise domestic violence, but they do not define domestic violence explicitly to include sexual violence.

88 Section 15, Article 218 (bis) of the Organic Act on Violence against Women in Tunisia of 2017. Section 15 replaces punishments in the Penal Code.

89 United Nations Population Fund (UNFPA) Arab States. Child Marriage. Available at: <https://arabstates.unfpa.org/en/node/15207>

90 A Mahram in Islamic Law is an individual whom one is permanently prohibited from marrying.

91 Article 7 (1) of the Rome Statute of the International Criminal Court defines crimes against humanity.

92 Article 8 (2) of the Rome Statute of the International Criminal Court defines war crimes.

93 Annex B5 elaborating on Article 7 (1) (g) -1 and Article 8 (2) (b) (xxii)-1 of the Rome Statute.

94 CEDAW Committee, General Recommendation No. 35, para. 29 (e). See also CEDAW Committee, Concluding Observations: Mauritania, CEDAW/C/MRT/CO/4, 2023, para. 25 (b); Bahrain, CEDAW/C/BHR/CO/4, 2023; para. 27 (a); Algeria, CEDAW/C/DZA/CO/3-4, 2012, paras. 29 and 30 (b). See also Article 36 of the Istanbul Convention.

95 CEDAW Committee, Karen Tayag Vertido v the Philippines, CEDAW/C/46/D/18/2008, para. 8.5.

96 CEDAW Committee, Karen Tayag Vertido v the Philippines, CEDAW/C/46/D/18/2008, para. 8.5.

97 See further “[Rape as a grave, systematic and widespread human rights violation, a crime and a manifestation of gender-based violence against women and girls, and its prevention](#)”, Report of the Special Rapporteur on violence against women, its causes and consequences, A/HRC/47/26, 19 April 2021.

98 Council of Europe Convention on preventing and combating violence against women and domestic violence: <https://rm.coe.int/168008482e>.

99 Case of L. and Others v. France: criminal-law system inadequate for the punishment of all non-consensual sexual acts, exposing rape victim to secondary victimisation, 24 April 2025, available at <https://www.coe.int/en/web/istanbul-convention/-/case-of-l-and-others-v-france-criminal-law-system-inadequate-for-the-punishment-of-all-non-consensual-sexual-acts-exposing-rape-victim-to-secondary-victimisation>.

- 100 [MC v Bulgaria](#), (No. 39272/98), § 181.
- 101 [Brisa de Angulo Losada vs Bolivia](#) Inter-American Court of Human Rights (2023).
- 102 <https://www.oas.org/juridico/english/treaties/a-61.html>
- 103 The Committee of Experts responsible for the analysis and evaluation of the implementation of the Convention.
- 104 https://www.corteidh.or.cr/docs/casos/articulos/seriec_475_esp.pdf. From para 134.
- 105 Article 33(2) of the Arab Charter on Human Rights. Article 34(2) of the Arab Charter relates to the right to the enjoyment of just and favourable conditions of work and notes that women should be protected in the workplace, therefore viewing women as vulnerable and in need of protection.
- 106 For further discussion, see Mervat Rishmawi, *Advancing Gender Equality through the Arab Charter on Human Rights*, (Chapter 14), in *Frontiers of Gender Equality* (2023).
- 107 CEDAW Committee, General Recommendation No. 35, para. 29 (e). See also CEDAW Committee, Concluding Observations Mauritania, [CEDAW/C/MRT/CO/4](#), 2023, para. 25 (b); Bahrain, [CEDAW/C/BHR/CO/4](#), 2023, paras. 26 (a), (b) and 27; Tunisia, [CEDAW/C/TUN/CO/7](#), 2023, para. 30 (c); Egypt, [CEDAW/C/EGY/CO/8-10](#), 2021, para. 23 (b); [CEDAW/C/YEM/CO/7-8](#), 2021, para. 20 (b); Qatar, [CEDAW/C/QAT/CO/2](#), 2019, paras. 27(a) and 28 (a); Palestine (West Bank), [CEDAW/C/PSE/CO/1](#), 2018, paras. 26 (c) and 27 (b); Saudi Arabia, [CEDAW/C/SAU/CO/3-4](#), 2018, paras. 31 (b) and 32 (b); Jordan, [CEDAW/C/JOR/CO/6](#), 2017, paras. 27, 31 (b), and 32 (b); United Arab Emirates, [CEDAW/C/ARE/CO/2-3](#), 2015, para. 28 (b); Syria, [CEDAW/C/SYR/CO/2](#), 2014, paras. 31 and 32; Algeria, [CEDAW/C/DZA/CO/3-4](#), 2012, paras. 29 and 20 (b);
- 108 See for example CEDAW Committee, Concluding Observations Lebanon, [CEDAW/C/LBN/CO/4-5](#), 2015, para. 28 (a).
- 109 [Joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general - comment No. 18 of the Committee on the Rights of the Child \(2019\) on harmful practices](#), CEDAW/C/GC/31/Rev.1–CRC/C/GC/18/Rev.1, 8 May 2019, para. 55 (f).
- 110 [Joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general - comment No. 18 of the Committee on the Rights of the Child \(2019\) on harmful practices](#), CEDAW/C/GC/31/Rev.1–CRC/C/GC/18/Rev.1, 8 May 2019, para. 20.
- 111 “[Rape as a grave, systematic and widespread human rights violation, a crime and a manifestation of gender-based violence against women and girls, and its prevention](#)”, Report of the Special Rapporteur on violence against women, its causes and consequences, A/HRC/47/26, 19 April 2021, para. 85 (c).
- 112 See *Consent-based rape definitions* Equality Now, 2021 https://equalitynow.storage.googleapis.com/wp-content/uploads/2021/09/20062312/EN-Americas_rpt_ENG_-_Consent_fact_sheet_03.pdf
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- 114 Ibid.
- 115 United Nations Regional Information Centre (UNRIC). *Women and girls are disproportionately affected by conflict-related sexual violence*. Available at: <https://unric.org/en/women-and-girls-are-disproportionately-affected-by-conflict-related-sexual-violence>
- 116 See “Joint Statement on the Implementation of the Yazidi Survivors Law - NGOs and Experts Raise Concerns over Requirement for Survivors to File Criminal Complaints to Receive Reparation”, 14 April 2023.
- 117 Wafa, “[الهباش يصدر قراراً إدارياً بشأن الاختصاص المكاني للمحاكم الشرعية في المحافظات الجنوبية](#)”, 26 October 2023 (Arabic).
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- 119 UN Women & CEWLA (2021), *Justice for Women in Egypt: Identifying the Barriers and Gaps in the Justice Chain*, p. 34 <https://www2.unwomen.org/-/media/field%20office%20arab%20states/attachments/publications/2021/10/justice%20for%20women%20in%20egypt%20report%20en.pdf>
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- 147 KAFA (enough) Violence & Exploitation: <https://kafa.org.lb/en/about>
- 148 ABAAD – Resource Centre for Gender Equality. *A White Dress Doesn't Cover the Rape*. Available at: <https://www.abaadmena.org/campaigns-advocacy/a-white-dress-doesnt-cover-the-rape/>
- 149 <https://sdgactionawards.org/a-white-dress-doesnt-cover-the-rape-undress522/>
- 150 The Lebanese Council to Resist Violence Against Women (LECORVAW)
- 151 The Lebanese Women Democratic Gathering (RDFL)
- 152 It should be noted that while the repeal of Article 522 was a significant step forward, the existence of Articles 505 and 518 means that certain forms of the "marry your rapist" provisions persist in Lebanese law. Advocates continue to call for comprehensive legal reforms to close these remaining loopholes and ensure full protection for minors and survivors of sexual violence.
- 153 RDFL, *Marital Violence in Lebanon: Field Study*, accessed 19 May 2025, <https://www.rdfwomen.org/eng/marital-violence-in-lebanon-field-study/>.



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menainfo@equalitynow.org



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