

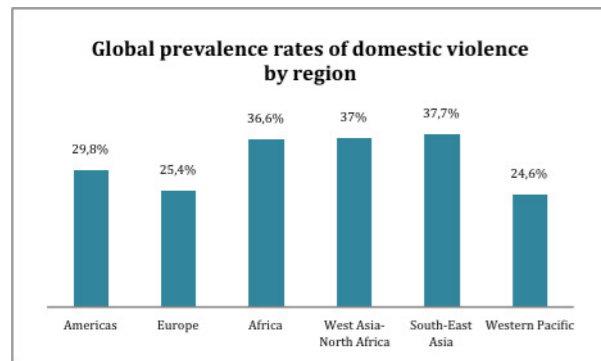
Prepared by Annalisa Bezzi

Regrettably, violence against women is a very common phenomenon throughout the West Asia and North Africa (WANA) region. When using the phrase “violence against women”, the general picture that comes to mind is that of a woman being beaten, harassed, or raped. However, it is important to be aware that violence is not only physical. According to the United Nations, violence against women is ‘any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life’. It is psychological violence in particular that should not be underestimated, especially in contexts where women are stereotyped and regarded as inferior to men.

### Patriarchal Attitudes

Among myriad causal factors, patriarchal attitudes cause significant harm. Such attitudes present women as unequal to men within society, and encourage women to see themselves as inferior. This contributes to widespread acceptance of violence against women. A 2014 UNDP report<sup>1</sup> estimated that 90 percent of Jordanian women justify battery, often for trivial reasons such as burning the dinner.<sup>2</sup>

37 percent of women in WANA experience violence from an *intimate* partner<sup>3</sup>, suggesting that gender-based violence mainly takes place in the nucleus of the private sphere: the home. Conservative attitudes and gender stereotypical beliefs are also responsible for inadequate legal provisions, lack of legal reform and poor implementation of the law.



1 <http://hdr.undp.org/en/2014-report>

2 [http://unstats.un.org/unsd/demographic/products/Worldswomen/WW2010%20Report\\_by%20chapter\(pdf\)/violence%20against%20women.pdf](http://unstats.un.org/unsd/demographic/products/Worldswomen/WW2010%20Report_by%20chapter(pdf)/violence%20against%20women.pdf)

3 [http://apps.who.int/iris/bitstream/10665/85239/1/9789241564625\\_eng.pdf](http://apps.who.int/iris/bitstream/10665/85239/1/9789241564625_eng.pdf)

### An Overview of the Legal Framework

#### North Africa

Of the five North African Arabic-speaking countries (Algeria, Egypt, Libya, Morocco, Tunisia), only Algeria and Tunisia specifically criminalise domestic violence. Although rape is considered a crime in all North African countries, it goes largely unreported. Social pressure dissuades victims from alerting authorities, a move which is widely perceived as bringing shame and dishonour on families.

Despite its criminal nature, in Algeria, Tunisia and Libya rape charges are dropped if a perpetrator marries his victim, often referred to as the ‘rape loophole’. This law was repealed in Egypt in 1999, and in Morocco in 2014, after 16-year-old rape survivor Amina Filali committed suicide after marrying her rapist.

#### The Levant

Among the Levantine countries, Jordan and Lebanon both have laws that protect individuals against domestic violence (however, to this day, Jordan has never implemented this law), while Syria and the Occupied Territories of Palestine (West Bank and Gaza Strip) still do not. In particular, the on-going conflict in Syria and the Israeli occupation in the Palestinian territories have contributed to create fertile ground for abuses and violence, which often target vulnerable groups such as children and women. The Syrian conflict, for example, has seen the massive use of rape as a war weapon. The lack of laws that women can appeal to in order to claim their right to safety and security grants perpetrators impunity and even incentivizes their crimes. Domestic violence is again underreported, and again this is connected to issues of shame and family honour. While rape is considered a crime, all Levant countries have some form of the ‘rape loophole’. These countries also present high rates of femicides (gender-based violence towards women that results in death), also referred to as so-called ‘honour crimes’. Girls or women can bring ‘dishonour’ to their families through behaviours as seemingly benign as talking to men, smoking or wanting to pursue a university education. Victims are usually killed by a male family member, often a minor, who then receives a reduced sentence.

### Iraq, Iran and Kurdistan

Iraqi law does not specifically criminalise domestic violence, with the exception of the Kurdish region. Again, the law exempts a rapist from punishment if he marries his victim.

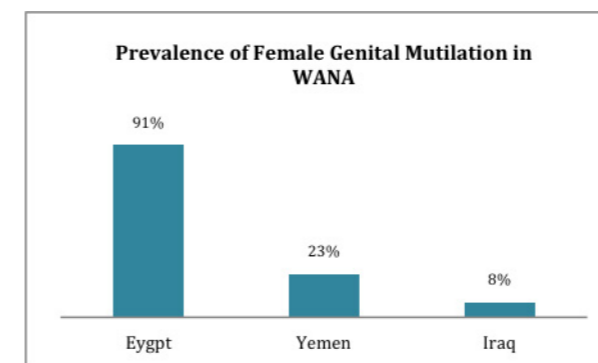
Iran lacks a specific legal provision against domestic violence. Rape is a crime, but in order for a conviction, four male witnesses or three male and two female witnesses are required. If a case lacks witnesses, the woman victim may be convicted of adultery or fornication. If she is unmarried, the sentence can result in lashing, however if she is married the punishment is death by stoning.

### The Gulf

The Gulf countries (Kuwait, Saudi Arabia, Bahrain, Qatar, UAE, Oman and Yemen) do not have specific legislation against domestic violence. The one exception is Saudi Arabia, which passed a law in 2013 criminalising domestic abuse. Rape is a crime in all countries, but again, violations are underreported because women may be accused of extra-marital relations.

### Prevalence of FGM Practices

Egypt features the highest number of cases of female genital mutilation (FGM) in the WANA region, and is only outmatched by Somalia and Guinea worldwide, with 91 percent of women exposed to FGM practices, often at a very young age. FGM is also widespread in Yemen and Iraq, with 23 per cent and 8 per cent of women undergoing the practice. Egypt banned FGM in 2008, and Yemen has decreed that clinics and hospitals are forbidden from performing the procedure.



4 [http://www.unicef.org/media/files/FGCM\\_Brochure\\_Lo\\_res.pdf](http://www.unicef.org/media/files/FGCM_Brochure_Lo_res.pdf)

5 Lynn Welchman, Special Stipulations in the Contract of Marriage: Law and Practice in the Occupied West Bank 64 (1994) 11 Recht van de Islam 6 Lawrence Rosen, Revision and Reality in the Family Law of Morocco 139 in Petersen Hanne, Rubya Mehdi, Erik Reenberg Sand (eds) Law and Religion in Multicultural Societies (DJØF Publishing 2008)

7 Lynn Welchman, Women and Muslim Family Laws in Arab States 49 (Amsterdam University Press 2007).

### Marital Rape

In none of the aforementioned countries is marital rape recognised, nor criminalised (with the exception of Lebanon, which does recognise marital rape, however it does not consider it a crime). Customary practices and pre-modern Islamic constructs have led societies to believe that sexual intercourse is a husband’s right. Some conservatives even argue that if the wife refuses to have sexual intercourse with her husband, she loses her right to matrimonial financial support.

### The Role of Culture

Although the impacts stemming from deficiencies in the legal framework should not be underestimated, a lack of specific laws protecting women is not the principal cause of gender inequality in the region. Cultural beliefs and practices strongly undermine the status of women within society, instilling a sense of worthlessness and helplessness. Moreover, even when law reform is achieved, implementation often remains an issue. Legislation alone is of little assistance if judicial and legal actors refuse to enforce it. Conservative judges often adopt a literalistic approach in regard to stipulations in marriage contracts, particularly limiting women’s right to divorce. In Marrakech in 2005, after the implementation of the new family code, polygamy was permitted in 124 cases, 14 more than in 2004. Moroccan judges are also reported to have been authorising minors to marry, after a visual assessment, ignoring the more detailed procedure required by the 2004 reform.

Grassroots movements that operate with an understanding of cultural frameworks are invaluable to strengthening the legal protection framework for women. Projects aimed at educating women, men, as well as judges and lawyers, in order to alter patriarchal attitudes within society must go hand-in-hand with law reforms and women’s empowerment projects. Only by readying the ground for such laws to be accepted and therefore implemented, will women in the region be perceived as equals and treated accordingly.



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Annalisa holds a BA in Cultures and Languages of the Middle East (Honours) from the University Ca’ Foscari of Venice, Italy and a MA in Islamic Law from the School of Oriental and African Studies, UK. Annalisa’s work at WANA mainly revolves around women’s legal

empowerment in Jordan. Her project’s objective is to start a debate on legal reform concerning women’s rights on the grounds of progressive Islamic interpretations. She has been working closely with Shari’a lawyers, legal aid organisations and women’s organisations in Jordan to identify obstacles and set a framework for a dialogue to take form. Annalisa has also worked on raising awareness within Jordanian civil society on the topic of women’s rights and the role of women in the Islamic texts. Other projects include the mapping of the status of legal empowerment in the West Asia – North Africa region, and legal perspectives on Syria contingency planning.