

4 Women in the family and in society

Recent reforms on the labour and economic front to enhance women's economic empowerment will have little impact if restrictive social norms and discriminatory legislation continue to hold women back. This chapter analyses the recent reform efforts and initiatives taken by Egypt, Jordan, Morocco and Tunisia to address restrictive social norms and discriminatory legislation regarding women's position in the family and in society. Countries have taken action on equal rights in inheritance, marriage and nationality, and are beginning to tackle the high rates of violence against women and girls, though there is still a way to go.

Infographic 4.1. Women in the family and society: inheritance, marriage and nationality

Women in the family and in society Inheritance, marriage and nationality

PROMISING PRACTICES AND POLICY RECOMMENDATIONS

Recent reforms on the labour and economic front will have little significant impact if restrictive social norms and stereotypes continue to hold back women. Some of these norms are also enshrined in the (family) legislation of the four countries, which is at odds with their constitutional principles on gender equality.

Inheritance

International conventions



The CEDAW Committee has clarified that women and men with the **same degree of relationship** to a deceased person should be **entitled to equal shares** in the estate. All four countries have ratified CEDAW.



The **Maputo Protocol** of the African Charter on Human and People's Rights mentions equal inheritance rights for women and men with specific guarantees for widows. So far, Tunisia is the only North African country covered by this publication that has ratified the protocol.

Promising practices



Tunisia's Committee for Individual Freedoms and Equality (COLIBE) proposes **equality in inheritance** between women and men. Although the proposal is still pending, it triggered intense **debate** in the region.



Jordan has introduced a regulation that **prohibits** heirs from **transferring their inheritance rights** until three months after the death of the testator.

National laws



National laws do not guarantee equal inheritance for women and men: female heirs are entitled to only **half the share** to which men are entitled. This is **contrary** to the equality principle that is enshrined in the **constitutions** of the four countries.

Additional barriers



Women are often put under pressure by family members to **waive their rightful share** of inheritance.



Women are **hesitant to claim their rights** in court as this may damage family relationships.



Egyptian inheritance legislation has been amended to impose **strict sanctions** on those who disinherit members of the family. Cairo's Court of Appeal delivered an unprecedented final judgement that confirms the **equality between Coptic men and women** in relation to inheritance.



Lifetime bequests have been made possible in Egypt and Tunisia, though these options are rarely taken up in reality.

Policy recommendations



Raise **awareness of women's inheritance rights**. These awareness-raising efforts should target both women and men.



Provide **legal assistance** to women who wish to claim their inheritance rights.



Train state officers involved in inheritance decisions and procedures in women's rights and practices in society that may impede the implementation of these rights.



Ensure **enforcement of court decisions** in favour of women's inheritance rights.



Enshrine equality in inheritance in **national legislation** in order to align this legislation with equality principles that are guaranteed by countries' constitutions.



Since the former recommendation may be difficult to achieve in the current political climate, countries should continue the **debate** on equality in inheritance for women and men. The debate should be based on facts and held in a spirit of openness.



Exchange experiences and good practices on women's inheritance across the region.

Marriage and nationality

International conventions



Article 9.2 of CEDAW stipulates **equal rights** between men and women with respect to the **nationality of their children**. Jordan has made a **reservation**. Egypt, Morocco and Tunisia have **lifted** their **reservations**.

National laws



Some nationality laws allow forms of **discrimination among citizens**. In Egypt, Jordan and Morocco, wives cannot transmit their nationality to a **foreign spouse**.



MENA women who marry foreigners may in some cases be discriminated against. Their spouses and their **children** may **not** have the **same rights** as other citizens of the country.



Non-citizens face **difficulties** in receiving residence permits, applying for driving licenses, buying real estate, and availing of the benefits in the educational, health, labour and investment sectors.

Promising practices



Egypt, Morocco and Tunisia have amended their nationality laws to **allow mothers** to transmit their **nationality** to their **children**.



Tunisia is the only country in the region that gives the **wife** the right to transmit her **nationality** to a **foreign spouse**. The country also allows Tunisian women to **marry non-Muslims**.



Jordan recently amended its Labour Law so that **non-citizen children** of **Jordanian women** who reside in Jordan no longer have to obtain a permit to work in Jordan.

Policy recommendations



Revise **nationality and marriage legislation**, to give women equal rights to **transfer their nationality to spouses and children**. Full legal equality should be ensured with no **differences** in transfer procedures for women and men.



Facilitate the **labour force participation** of foreign spouses and their **children**.

Infographic 4.2. Women in the family and society: violence against women

Women in the family and in society Violence against women

PROMISING PRACTICES AND POLICY RECOMMENDATIONS

1 in 3 women in MENA have experienced violence.



35% of MENA women have experienced **intimate partner** violence.

54% of Tunisian women have experienced violence in the public sphere.

Economic violence **doubled** in 10 years in Morocco.



14% of MENA girls marry under the age of 18.

The total cost of violence for survivor women and their families is estimated to be almost **EUR 127 million** per year in Egypt.



There is a strong belief that women should tolerate violent treatment by their spouse to keep the family together.

This opinion is shared by men and women:



Unlike other regions, younger generations of men in MENA do not hold more liberal views than their elders.



International conventions



CEDAW, ratified by the four countries, includes a number of provisions on violence against women.

The **ILO Violence and Harassment Convention**, the **Council of Europe Convention on preventing and combating violence against women and domestic violence** (Istanbul Convention), and the **OECD Recommendation on Ending Sexual Exploitation, Abuse, and Harassment in Development Co-operation and Humanitarian Assistance** have not yet been ratified by the four countries.

Constitutions / law



Egyptian and Tunisian constitutions **prohibit** violence against women.

All four countries have **issued new laws or amended** existing legal frameworks on violence against women (see below).

Content of the legal reforms

Promising practices

Definition of violence against women (VAW):



Many types of violence are still not covered by the legislation. E.g., Tunisia is the only publication country to criminalise **marital rape**.

Tunisia and Morocco have included **economic violence** in their legal frameworks on VAW.

Prevention of violence:



Tunisia and Morocco have included provisions on the prevention of violence in their legal frameworks. Jordan and Egypt address this issue in national strategies.

The legislation of all four countries recognises the important role of the **media** in preventing violence by avoiding **gender stereotyping**.

Protection of women:



Countries have reformed their legislation to strengthen the mechanisms to protect women who have experienced violence (e.g. by introducing increased channels of **reporting** and **protection orders**).

Sanctions for perpetrators:



The reforms increase sanctions for perpetrators of violence and have included **new types** of crimes.

Sexual harassment in the workplace:



Egypt, Morocco and Tunisia have made reforms to address sexual harassment in the workplace (e.g. by introducing more severe sentences for perpetrators with authority over the victim).

In Jordan, Bank El Etihad has issued a sexual harassment policy.

Care for victims:



Countries' laws foresee establishing institutions to care for victims and investing in care facilities to complement current under-resourced facilities operated by NGOs.

Alignment at the international level:



Tunisia used the UN Women's **Handbook for Legislation on Violence Against Women** to align its national legal frameworks with international commitments.

Policy recommendations



Issue a **comprehensive law** on violence against women and/or align the various national legal frameworks.



Provide **funding** and **capacity building** to national CSOs.



Invest in the **prevention** of violence and addressing the **underlying reasons**, also engaging also men and boys.



Ensure **co-ordination** among the various **state institutions** that are responsible for addressing VAW.



Align national legislation with international standards on VAW. If the constitution includes a provision on VAW, this can be used as extra leverage.

Women in the family and in society

Violence against women (cont.)

PROMISING PRACTICES AND POLICY RECOMMENDATIONS

Engaging in attitude change

Promising practices

Building the evidence base:



Countries have been using **surveys** to document the **magnitude** and **forms** of violence at the national, and sometimes sub-national, level.



Reasons behind violence are being explored in some countries, e.g. through the International Men and Gender Equality Study in Egypt and Morocco.



Evidence-based advocacy methodologies have been developed, such as a model to estimate the **costs of marital violence** in Egypt.

Advocacy:



The international community and various national actors are **putting pressure** on law makers and making suggestions to align national legal frameworks with international standards.

Strategies and policies:



Countries have drafted policies and strategies to **complement** the national legal framework.

Policy recommendations



Adopt **strategies, policies, action plans** and **programmes** to support the concrete **implementation of legal reform** on violence against women.



Continue building the **evidence base**. Indicators used for surveys should be **harmonised** so that data can be compared across countries and over time. Surveys should also look at the **perceptions** and **attitudes** of both women and men.



Carry out **further research** to better understand the **linkages** between violence and women's economic empowerment.



Exchange experiences and good practices on legal reform across the region.

Implementing the reforms

Promising practices

Changing perceptions:



A shift in **perception** and **public opinion** on violence is noticeable in some publication countries, for example with **religious authorities** and **leaders** of the region taking a stand.



Social media is playing an important role in breaking the taboos around the issue.



Countries have started programmes that focus on a **change in attitudes** around violence against women and engaging men and boys.



In Morocco, the Ministry of Justice has developed, in cooperation with the European Council, a short **awareness film on violence against women** in the context of the **COVID-19** confinement measures.

Sensitisation and awareness raising:



Countries have been **sensitising legal/justice professionals** and **institutions** who have a role in implementing VAW legislation and legislation that impact women's rights.

Regular monitoring:



Morocco and Tunisia have established national institutions to regularly **monitor** and **submit reports** on VAW.

Access to justice:



Recent reforms in countries have strengthened the protection and institutional co-ordination systems for women victims of violence who have decided to **report**. However, women are often pressured to drop the charges.



During the COVID-19 pandemic, countries are taking actions to facilitate reporting of violence. E.g., Tunisia **extended its helpline hours** and launched a **legal assistance phone service**. Morocco has designed an application to locate the victim of violence in the event of a distress call. It has also launched an **online platform** that enables victims to **file complaints remotely**.

Protection of women:



Countries are increasing measures to protect women during the **COVID-19 crisis**. E.g., Tunisia has opened a **new centre** where gender-based violence survivors can **self-quarantine** before moving to traditional shelters.

Policy recommendations



Engage both traditional and **social media** in disseminating VAW findings and the recent legal reforms on VAW. These awareness-raising efforts should target both women and men.



Train state officers in the recent reforms so that they can apply them in their work (including police officers, judges, clerks, and also social workers, doctors, teachers, and other education specialists).



Provide support to women to report violence. Also provide free **legal aid** and **support to women victims** while they go through the judicial procedures to bring the perpetrator to justice.



Monitor, report on and evaluate the implementation of the reforms annually.

4.1. Introduction

The four countries are increasingly aware that if they want to enhance the competitiveness of their economies, they will have to take measures to bring more women into the labour force and provide them with quality jobs. Chapters 2 and 3 have outlined a range of reforms that have been undertaken to address this challenge. These reforms have focused mostly on revising labour and economic legislation.

While these reforms are a significant step forward, reforms on the labour and economic front will have little significant impact if restrictive social norms and stereotypes that hold back women's economic empowerment continue to exist. These norms cast men as the main provider and head of the family and women as responsible for the household. These norms are also an important driver of violence against women and girls, the rates of which are very high in the MENA region, as in other regions of the world (globally, violence will affect around one in three women and girls at some point in their lives).

The 2017 OECD report *Women's Economic Empowerment in Selected MENA Countries* indicated that some of these norms are also enshrined in the (family) legislation of the four countries, which goes against their constitutional guarantees on non-discrimination and gender equality. Women still do not have the same rights as men when it comes to marriage and divorce, family decision making, inheritance and property rights as well as freedom of movement (OECD, 2017^[1]). The OECD Social Institutions and Gender Index however indicates that these challenges are not unique to the MENA region. For example:

- Worldwide, 57 economies¹ have legal provisions in place that subordinate women to their husband's authority (OECD, 2019^[2]). This includes some countries covered by the publication: in Egypt and Jordan the family law prescribes that wives should obey their husbands.
- Globally, the majority of economies have customary, religious or traditional laws that mean that daughters and/or widows receive a lower share of inheritance than sons and/or widowers (OECD, 2019^[2]). Only 64 countries do not.² In all four countries covered by this report, the general inheritance rule prescribes that men inherit twice as much as women.
- In 50 economies worldwide,³ women have fewer citizenship rights than men. These restrictions may be linked to the right to acquire, change or retain their nationality, or to the right to confer their nationality on their children or on a non-citizen spouse (OECD, 2019^[2]). Married women in the four countries covered by this report do not have the same rights as men when it comes to transferring their nationality.

While discussions on women's personal status are difficult and sensitive, the rise of social media has given young generations a platform to raise their voices. Topics that were taboo for a long time have now been brought to the fore and are also being discussed in the political arena. This is also thanks to civil society organisations that have been advocating and lobbying tirelessly for reforms in support of women's economic empowerment (see Chapter 5).

While change is slow, countries are taking steps to improve women's personal status and their position in society. This chapter outlines recent reforms and initiatives that have taken place in the four countries to:

- promote equal inheritance rights
- ensure equal marriage and nationality rights
- address violence against women and girls (VAW).

The seven case studies in this chapter examine how and why the reforms came about, the actors involved and how the reforms are being/will be implemented, as well as highlighting key success factors. The information shared in the case studies has been discussed extensively with stakeholders in the respective countries (Annex A at the end of the report contains a list of resource persons in each country; Annexes B, C and D describe the methodological process). The chapter also includes in-depth boxes that analyse

VAW initiatives based on desk review.⁴ The chapter concludes with some policy recommendations based on the lessons from the case studies and research.

4.2. Inheritance

Inheritance is an important mechanism for women and men to acquire assets and contribute to their economic empowerment. Equality in inheritance is enshrined in international standards ratified by the four countries. Yet national inheritance legislation continues to discriminate along gender lines in the four countries. In addition, women are often pressured to relinquish their legal share of inheritance.

The non-discrimination principles in the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), ratified by all four countries, guarantee women's equal inheritance rights. While CEDAW does not include any specific provisions on inheritance, the CEDAW Committee has clarified that women and men with the same degree of relationship to a deceased person should be entitled to equal inheritance rights (CEDAW, 1994^[3]). Article 21 of the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa (Maputo Protocol) also mentions equal inheritance rights for women and men with a number of specific guarantees for widows. So far, Tunisia is the only North African country covered by this publication that has ratified the protocol.⁵

While the constitutions of all four countries include the equality principle, national laws do not guarantee equal inheritance for women and men. The general rule in the family law of the four countries is that female heirs are entitled to only half the share to which men are entitled. These rules were initially established because men are deemed financially responsible for their families, while women do not have this obligation. Nowadays, this rule does not reflect the reality that women often contribute significantly to the family income. The rule also perpetuates gender inequalities over generations since daughters continue to inherit less than sons.

With the general rule already discriminatory along gender lines, there are additional challenges for women in securing their share of the inheritance. Women are often put under pressure by family members to waive their rightful share of inheritance. In addition, women are hesitant to claim their rights in court as this may damage family relationships and put them in a vulnerable position.

Countries have begun to provide some options for more equal inheritance, though in reality these options are rarely taken up. Jordan has introduced a regulation that prohibits heirs from transferring their inheritance rights until three months after the death of the testator. This regulation gives women time to consider their options and resist pressure from family members to relinquish (some or all of) their inheritance. Tunisia encourages lifetime bequests so that women can access gifts from their parents, spouses or brothers as some sort of inheritance anticipation. In addition, it is possible to draw up a will that gives additional inheritance to women. In Egypt, lifetime bequests are possible, as well as an agreement between heirs to divide the inheritance equally (OECD, 2017^[1]).

Recently, interesting shifts are being seen in the region that suggest a move towards greater equality in inheritance. Case Studies 4.1 and 4.2 analyse these evolutions in Tunisia and Egypt in detail.

- Case Study 4.1 describes the actions of Tunisia's Committee for Individual Freedoms and Equality (COLIBE). Established by former President Beji Caid Essebsi, COLIBE drafted a report that proposed aligning national legislation with constitutional provisions, including in the area of gender equality. It proposes equality in inheritance between women and men, while leaving those who do not accept this equality free to distribute their inheritance differently. Although former President Essebsi supported the report's recommendations, the legislation on inheritance remains unchanged. However, the COLIBE recommendations steered major debates in other countries in the region about women's inheritance rights and gender equality more broadly.

- Case Study 4.2 tells how Egypt amended the inheritance legislation in 2017 to impose strict sanctions on those who disinherit members of the family. Though the reform does not give women additional inheritance rights, it penalises the illegal deprivation of those rights. While the law is already being applied in the courts, verdicts that rule in favour of women are often not implemented in practice. However, another important evolution has taken place in Egypt to guarantee equality in inheritance for certain groups of society. In June 2019, Cairo's Court of Appeal delivered an unprecedented final judgement that confirms the equality between Coptic men and women in relation to inheritance (Sidhom, 2019^[4]).

Case study 4.1. Proposals to align Tunisia's national legislation with constitutional gender guarantees

Tunisia's ambitious new constitution was adopted in 2014 and strengthens women's status. However, there are still a number of laws in Tunisia that are contrary to the rights accorded to women in the constitution; these should be revised.

Former Tunisian President Beji Caid Essebsi announced the creation of the Committee for Individual Freedoms and Equality (COLIBE) on 13 August 2017 on the occasion of National Women's Day.⁶ COLIBE's mission was to prepare a report proposing legal reform to bring individual freedoms and equality into line with the constitution and Tunisia's international human rights commitments. Part of the report's proposals focus on the situation of women.

This case study examines these proposals on equal inheritance, which are important despite the fact that they have not been fully implemented. They have led to important exchanges in other countries on this topic, and the fact that the President gave the mandate to this commission indicates state support for such discussions.

What is the reform and how did it come about?

The committee adopted a participatory approach and held consultations with representatives from different ministries, political parties, civil society, academia and international organisations. The final report was handed over to the President on 8 June 2018 and made public a couple of days later.⁷

The COLIBE report includes a section on gender equality in the areas of citizenship, the status of foreign nationals married to a Tunisian in Tunisia, the marriage contract, marital rights and obligations, relationship with children, inheritance and tax law. It describes existing discrimination, followed by proposed amendments to existing laws or a new draft law. In the most difficult and controversial areas, several alternatives are proposed. The report refers to provisions in the Tunisian Constitution, national legislation and relevant international conventions to which Tunisia is a signatory.

The report emphasises that as Tunisian culture and identity change over time, legal frameworks should reflect these changes. It also insists on the freedom for everyone to make their own choices, men and women alike. It puts women at the same level as men in the family and society at large by arguing that increased responsibility leads to emancipation.

The following are most the relevant proposed reforms for women's economic empowerment:

- **Non-discrimination in inheritance:** The report calls for civil rather than religious provisions to manage inheritance because granting equal inheritance to men and women represents equality in rights, a notion that is enshrined in the Tunisian constitution as well as in international conventions. The current Tunisian legislation prescribes that generally women's inheritance is half that of men's, foreseeing the possibility to deviate from this rule for families that prefer an equal distribution (OECD, 2017^[1]). The COLIBE report proposes equality in inheritance between men and women

that are next of kin: brother and sister, son and daughter, father and mother and spouses. It proposes three different options:

- legally guaranteeing equal inheritance shares for male and female heirs
- legally guaranteeing equal inheritance shares for male and female heirs unless agreed otherwise
- legally guaranteeing equal inheritance shares for male and female heirs, with women having the final say when making a choice between receiving half the share of inheritance and receiving the same inheritance as the man in question.

The report also proposes a hierarchy for heirs: first sons and daughters, then parents and siblings, followed by grandparents and finally uncles and aunts. This would place women in a better position than currently, whereby uncles and male cousins can receive the inheritance instead of next-of-kin women. The report also proposes guaranteeing the widow's right to stay in the marital home after her husband's death.⁸

- **Tunisian citizenship and residency rights for foreign spouses:** currently a female foreign spouse is treated differently to a male spouse. While both men and women can transmit their Tunisian citizenships through marriage, men face less onerous conditions than women.⁹ The report proposes that citizenship should be granted to men and women on equal footing.¹⁰ The report even calls for retroactive legal provisions to correct past discriminations.
- **Abandoning or downgrading the practice of bride price:** this is paid by the groom (or his family) to the bride upon marriage. While the bride price can constitute a gift representing the union and the love between the spouses, it is also an obligation that prevents the woman from exercising her freedom to choose a spouse. Abolishing this practice would remove money from the power dynamics between husband and wife so that it is no longer the determining factor in a relationship. The report also proposes abolishing the grieving period within which a widow or divorced woman cannot remarry, in order to determine potential paternity.
- **Basing equality between husband and wife on the law and not on tradition and custom:** The report maintains that a husband's position as family head does not only mean that he is financially responsible for the family, but also that he has other types of responsibilities such as the education of the children. The report mentions that if the mother has an income, she should also contribute financially to the children's education. The report argues that it is in the children's best interest that mothers and fathers are equal and calls to abandon any different treatment of girls and boys within families. It suggests that children could take both their mother and father's surnames.
- **Taxation:** The 2017 OECD report clarifies that in Tunisia, tax allowances¹¹ are granted to the head of household, defined by the fiscal Code as the husband, a divorced spouse with custody of the children, a widow or the adopting parent.¹² This implies that, by default, tax allowances are granted to the husband even if his wife earns a salary and contributes to child-related and household expenses. A taxpaying woman will not benefit from these allowances unless she proves that she is providing a living for her husband and children (OECD, 2017^[1]). The COLIBE report highlights a related issue: since the spouses are taxed separately, and only the head of household is entitled to deductions from his taxable income, married women who earn an income subject to tax are disadvantaged compared to men as their taxable income is calculated without any deductions.

What are the impacts, implementation challenges and factors for success?

Commissioning this report was a bold and necessary initiative. It shows that Tunisia is serious about identifying national legislation that is contrary to the constitution and human rights commitments in terms of individual freedoms and equality, and has support at the highest level. No other MENA country has created a similar committee.

The report is well structured and its arguments draw on years of work by civil society and activists. The Committee's President is one of the founders of the Tunisian Association of Democratic Women (ATFD) and has thus been at the forefront in defending women's rights for years. Other members of the committee also have experience in activism and know very well the issues at play in Tunisian society.

However, its proposals have not been implemented.¹³ The report has been submitted to parliament and is still pending a decision on follow-up actions. With a new government now in place, political priorities may have shifted. And although the Committee recommends equality in inheritance, it also proposes alternative options that undermine this equality.

The interviews carried out for this report reveal criticism from several angles. Some say that the report is elitist and that it is not in line with Tunisian culture. Others argue that it waters down the notion of full equality by offering alternatives and compromises. Some people have questioned why the report does not go into other types of gender discrimination, such as pay inequality.¹⁴ Some actors have deliberately spread false information about it. A range of communiqués in support of and against the report has been issued.¹⁵

The report has definitely succeeded in triggering intense debate – not only in Tunisia, but throughout the MENA region (Case Study 4.2). As the report is long and technical, the next step should be to clarify and disseminate the exact content of its core proposals.

Case study 4.2. Penalties for depriving women of their inheritance in Egypt

In Egypt, the general rule is that women inherit half of what men inherit. In addition, women are often also deprived of this smaller share of inheritance. While overhauling the inheritance law proved too challenging, this case study describes how instead, women's rights supporters decided to advance women's inheritance in small steps by proposing legal reforms targeting additional inequalities in implementing the existing law.

Inheritance in Egypt is regulated by Law No. 77/1943¹⁶ (on inheritance) and Law No. 71/1946¹⁷ (on wills). While these laws are strongly influenced by *Shari'a* Islamic inheritance law, they apply to all religious communities in Egypt, including non-Muslim communities.¹⁸ In general women inherit half the amount that men inherit when both have the same relationship to the deceased. Non-Muslim women married to Muslim husbands are not entitled to any inheritance. For this reason, many non-Muslim wives find themselves forced to convert to Islam during their marriage (Tadros, 2010^[5]). While women in theory can inherit half of the amount of men (when both have the same relationship to the deceased), they are often deprived illegally of even this share.

This practice of women being prevented from inheriting their rightful share is common in border governorates and in Upper Egypt, where about 95.5% of women are affected, particularly with regard to land rights (Khodary, 2018^[6]). Within local communities, this matter is governed by a set of informal customary laws which ensure that land is transferred to the male progeny.

In 1946, the Egyptian Parliament adopted Law No. 71, the Law of Bequest in response to the growing number of complaints from grandchildren who were excluded from inheritance upon the death of their grandparents. Its Article 37 is particularly relevant, since it introduces the possibility of testamentary freedom in favour of a legal heir. Giving the heir the opportunity to inherit on top of his/her legal share, a family can decide that daughters may inherit the same share as sons. However, if the deceased left no written testament, then the legal share applies, which means that the daughter inherits half the amount of a son. Besides testamentary freedom, people may circumvent the discriminatory inheritance rules, for example by registering their property under their daughter's name. These options are not frequently used though because many Egyptians, especially in villages and remote areas, are not aware of them and because social norms are traditionally not in favour of women's economic empowerment (OECD, 2017^[11]).¹⁹

What is the reform and how did it come about?

Renewed reform efforts took place in 2017, when the National Council for Women (NCW) advocated for reforming the inheritance law to bring it in line with the National Strategy for the Empowerment of the Egyptian Woman 2030 (Box 4.1). The NCW, alongside the Council of Ministers and several civil society groups, submitted drafts for an inheritance law reform. None of these drafts proposed equal inheritance for women and men – the existing inequality between female and male heirs is usually not touched in legal reforms as it is perceived too difficult to change given the prevalence of Islamic law. Instead, women's rights supporters decided to advance women's inheritance in small steps. Thus, the proposed law reforms target additional inequalities in implementing the existing law.

Box 4.1. National Strategy for the Empowerment of Egyptian Women

In 2017, the National Council for Women (NCW) launched the National Strategy for the Empowerment of Egyptian Women 2030. The Strategy was issued in the framework of the 2017 Year of the Egyptian Women, proclaimed by the Egyptian President Abdel Fattah El Sisi.

The national strategy is in line with the United Nations Sustainable Development Goals and the Egyptian Sustainable Development Strategy 2030. It is based on four pillars for women's empowerment: political empowerment, economic empowerment, social empowerment and protection against all forms of violence. Moreover, the strategy includes a comprehensive monitoring and evaluation mechanism, with a set of indicators and objectives to measure the achievement of all levels of accountability by 2030. In addition, the strategy calls for establishing the Egyptian Women's Observatory, which will develop scorecards to reflect the values of various indicators as well as the progress achieved towards realising women's economic empowerment.

Source: NCW (2017^[7]), *National Strategy for the Empowerment of Egyptian Women 2030: Vision and Pillars*, <http://ncw.gov.eg/wp-content/uploads/2018/02/final-version-national-strategy-for-the-empowerment-of-egyptian-women-2030.pdf>.

President Abdel Fattah El Sisi supported NCW in their campaign to put pressure on Parliament to address the widespread problem of women being unjustly denied their legitimate right to inherit.

The campaign took advantage of the discussions surrounding the National Strategy for the Empowerment of Egyptian Women (Box 4.1), which includes provisions to stop women being illegally deprived of their inheritance. Their efforts resulted in the amendment of Inheritance Law No. 77/1943 in 2017.²⁰ The amendment imposes strict sanctions on those who disinherit members of the family. According to new Article 49, anyone guilty of having intentionally deprived an heir of their rightful inheritance is punished with three years in prison and a fine ranging between EGP 20 000 and 100 000 (around EUR 1 200 and 6 000). Anyone guilty of hiding documents that could prove someone's legal right to an inheritance is sentenced to at least six months in prison and a fine ranging between EGP 10 000 and 50 000 (approximately EUR 600 and 3 000).

The debate was refuelled in 2018, after Tunisian President Beji Caid Essebsi proposed giving Tunisian women equal inheritance rights (Case Study 4.1). This stirred up controversy, in particular among the Sunni Islam's highest authorities. Ahmed al-Tayeb, the Grand Imam of al-Azhar, took a firm position against the proposal and insisted that some Islamic rules, such as the laws regulating inheritance, are definitive and cannot be re-interpreted (Ahram Online, 2018^[8]).

Even though society places a high value on al-Azhar's opinions, Cairo's Court of Appeal delivered an unprecedented final judgement that contests al-Azhar's opinion. The judgement confirms the equality between Coptic men and women in relation to inheritance,²¹ based on Article 3 of the Constitution (Sidhom,

2019^[4]). This judgement could potentially have a significant impact since it goes against Egypt's inheritance law which applies to all religious communities in Egypt, including Coptic communities.

What are the impacts, implementation challenges and factors for success?

A broad reform of the inheritance law in Egypt currently does not have enough political support (The Arab Weekly, 2018^[9]). However, giving women equal inheritance rights to men would be a very important step towards gender equality and could contribute enormously to women's economic empowerment. Protecting women's access to their inheritance will give them choice over how to use it: for example, to start a business or apply for a loan. A woman who has her own assets might also have a stronger position within the family and her voice might be heard more in financial decisions concerning the family.

While it is premature to assess the impact of this reform, implementation of this new legal provision is proving challenging for several reasons:

- **Many women are not aware of their rights**; nor are they familiar with the legal actions they are entitled to take. This means that any legislative reform has to be coupled with awareness raising, targeting both women and men. In 2017 NCW launched the *Tareq al-Abwab* (door-knocking) campaign to explain to women in villages and remote areas of Egypt their inheritance rights (Aman, 2017^[10]).
- **Customs and conservative family structures** are an even greater obstacle to the implementation of the law. Women who take their relatives to court over an inheritance claim risk being disowned and rejected by their families, which they cannot afford either economically or socially. In some cases, family members resort to violence if women file an inheritance case. According to a 2008 study conducted by the Ministry of Justice, nearly 8 000 murders are committed annually among family members due to inheritance disputes (Awad, 2018^[11]).²² It is widely believed that resorting to court is a bad omen for women, who will hence have to face God's punishment, in their current life or after death (Khodary, 2018^[6]).

It is a major challenge to address these beliefs, especially as all segments of society are included in the practice of depriving women from their legal share of inheritance. The result is that women waive their rights to their full inheritance to avoid exclusion and stigma. Some families offer them the so-called *radwa*, a small amount of money in exchange for their waiver. Sometimes the head of the family is not even keen on offering compensation, and just sells his estates to his sons to deprive daughters of their inheritance (NCW/USAID, 2009^[12]).

Nevertheless, the Gender and Legal Expert House has reported that courts have started to apply Article 49 of the inheritance law. Court verdicts exist that penalise people for depriving women of their rightful inheritance share. However, as these court verdicts are not being enforced by the police, women remain without their rightful share and the perpetrators go unpunished.²³

Penalties alone will not trigger social change; clear mechanisms and tools for changing social norms on gender equality more broadly are needed.

4.3. Marriage and nationality

An important indicator of women's empowerment is their freedom to make their own decisions. This includes freedom of choice over whom to marry.²⁴

The laws of MENA countries do not prohibit marriage with foreigners. However, in practice, MENA women who marry foreigners may in some cases be discriminated against in day-to-day life. In addition, their spouses and their children may not have the same rights as other citizens of the country (Information and Research Center – King Hussein Foundation, 2011^[13]).

While all four countries covered by this publication have ratified CEDAW, some of them have made reservations to various CEDAW articles, including Article 9.2 on equal rights between men and women with respect to the nationality of their children. Egypt, Morocco and Tunisia have lifted their reservations to Article 9.2, while Jordan has maintained them.

Even though the constitutions of the four countries include non-discrimination and gender equality principles, some nationality laws in MENA allow forms of discrimination among citizens. Tunisia is the only country covered by the publication that gives the wife the right to transmit her nationality to a foreign spouse, while husbands in all four countries can transfer their nationality to a foreign spouse (Table 4.1). Tunisia has even gone a step further to allow Tunisian women to marry non-Muslims (Box 4.2).

Morocco (2013), Egypt (2004) and Tunisia (2010) have amended their nationality laws to allow mothers to transmit their nationality to their children. In Jordan, mothers cannot transmit their nationality to their children, as described in Case Study 4.3.

Table 4.1. Nationality laws in the four MENA countries

	Egypt	Jordan	Morocco	Tunisia
Husband can transmit his nationality to foreign spouse and to his children	✓	✓	✓	✓
Wife can transmit her nationality to foreign spouse (under certain conditions)				✓
Mother can transmit her nationality to children	✓		✓	✓

Note: In Tunisia, both women and men can transmit their nationality to their spouse through marriage but the conditions for men to transmit are easier than for women (Art. 13 and 14 Tunisian nationality code).

In Tunisia, there are still different procedures for men and women when it comes to transferring nationality to their children

Source: OECD (2017^[11]), *Women's Economic Empowerment in Selected MENA Countries. The impact of legal frameworks in Algeria, Egypt, Jordan, Libya, Morocco and Tunisia*; World Bank Group (2020^[14]), *Women, Business and the Law, 2020*, <https://wbl.worldbank.org>.

Box 4.2. Campaign success to allow Tunisian women to marry non-Muslims

Until 2017, if a Tunisian woman wanted to marry a non-Muslim in Tunisia, she would have to present a certificate proving that her future spouse had converted to Islam. This was mandated in a Tunisian circular from 1973, and other texts. The same held true for Tunisian women who married a non-Muslim abroad and wanted to have the marriage recognised in Tunisia.

Civil society organisations had been advocating for a long time for the freedom of women to choose their spouses. They argue that the texts do not respect women's freedom to choose their spouse and are contrary to the Tunisian Constitution and Tunisia's international commitments on women's rights. The process took a more organised dimension when 60 Tunisian associations grouped themselves into a "collective" to advocate for the abolition of the 1973 circular. In 2017, Tunisian President Essebsi cancelled the 1973 circular and all similar texts that did not allow a Tunisian woman to marry a non-Muslim.

Case study 4.3. Equality in children's nationality and work rights in Jordan

While Jordan is still lagging behind other MENA countries in terms of giving equal rights to individuals with Jordanian mothers and non-Jordanian fathers, the country has recently taken some steps in the right direction. This case study outlines some recent initiatives.

What is the reform and how did it come about?

Jordan has a unique position in the region, since for many years it has been hosting a large number of refugees from neighbouring countries (Case Study 3.4.). This has meant a large influx of non-Jordanians, many of whom have started marrying Jordanian citizens. Jordan's Nationality Law²⁵ indicates that nationality is transmitted mainly by paternity (Art. 3.3): while Jordanian men married to foreign women can transmit their nationality to their children, Jordanian women married to foreigners do not have this right. Currently about 89 000 Jordanian women are married to foreign husbands. Therefore, around 360 000 children are non-citizens even though their mother is Jordanian and they are living in Jordan (Najjar, 2017^[15]).

Non-citizens face difficulties in receiving residence permits, applying for driving licenses, buying real estate, and availing of the benefits in the educational, health, labour and investment sectors. In all these areas, children of Jordanian mothers and foreign fathers are treated as expatriates (Human Rights Watch, 2018^[16]). The Jordanian Labour Law is highly restrictive to non-Jordanians. According to Article 12, non-Jordanian workers cannot be employed except with the Labour Minister's approval and provided that the work requires experience and qualifications that are not available among Jordanian workers. Work permits must be renewed annually. Large segments of the job market are also "closed professions" to non-Jordanian citizens.

In order to ease the situation, in 2014 the government decided to start issuing identification cards which give individuals with Jordanian mothers and foreign fathers certain benefits. Nevertheless, this reform was only of limited impact since issuing the identification cards takes a very long time and proof of eligibility is complicated. As of February 2018, less than 20% of non-citizen children of Jordanian women had obtained identification cards (Human Rights Watch, 2018^[16]). In addition, even if they get an identification card, non-citizen children of Jordanian women still have to apply for an annually renewable work permit.

Women's rights activists have been campaigning for a long time for equal rights for children of Jordanian women married to non-Jordanians. Recently, they have gained the support of the international community, which is putting pressure on Jordan to address the situation. The campaign frames the issue as a violation of the equality principle enshrined in the constitution. It not only advocates for Constitutional reform, but also for reform of the nationality law. When some Labour Law articles were opened for reform, the campaign seized on this momentum to also propose equal labour rights for individuals with Jordanian mothers married to non-Jordanians. This culminated in an amendment of article 5 of the Labour Law to state that non-citizen children of Jordanian women who reside in Jordan no longer have to obtain a work permit to work in Jordan.

What are the impacts, implementation challenges and factors for success?

It is important to place the issue in the wider context of the region, with Jordan hosting a large number of refugees from neighbouring countries. The country is concerned not to make refugees' stay permanent, since this will put additional strain on an already vulnerable economy with low labour force participation rates of Jordanians. Nevertheless, citizens should be free to marry their partners of choice and the consequences of this choice should not negatively affect their children.

4.4. Violence against women and girls

Violence against women and girls (VAW) is still very prevalent in MENA, as in other regions of the world (Chapter 1), and can take many forms. The Istanbul Convention on preventing and combating violence against women and domestic violence, defines violence against women as falling under four key forms: physical, sexual, psychological and economic (Council of Europe, 2011^[17]). Box 4.3 discusses the links between violence against women and women's economic empowerment.

UN Women's *Handbook for Legislation on Violence Against Women* (Box 4.4) states that legislation should apply to all forms of violence against women, including but not limited to (UN Women, 2012^[18]):

- Domestic violence.
- Sexual violence, including sexual assault and sexual harassment.
- Harmful practices, including early marriage, forced marriage, female genital mutilation, female infanticide, prenatal sex-selection, virginity testing, HIV/AIDS cleansing, so-called honour crimes, acid attacks, crimes committed in relation to bride-price and dowry, maltreatment of widows, forced pregnancy, and trying women for sorcery/witchcraft.
- Femicide/feminicide.
- Trafficking and sexual slavery.

Legislation should also recognise violence against women perpetrated by specific actors, and in specific contexts, including:

- Violence against women in the family.
- Violence against women in the community.
- Violence against women in conflict situations.
- Violence against women condoned by the state, including violence in police custody and violence committed by security forces.

The four countries covered by the publication have all ratified international standards on eliminating VAW (Box 4.4) and have all recently made changes in their legal, policy and institutional frameworks to further address VAW. For example, the constitutions of Egypt and Tunisia prohibit violence against women. While Tunisia and Morocco have issued new laws on VAW, Jordan and Egypt have amended their existing legal frameworks on VAW. While this is a positive evolution, in some countries the changes are not in line with international standards on the topic and are only minimal.

The four case studies in this section provide an overview and analysis of the latest legislation on VAW in each of the four countries. The section concludes with an in-depth analysis of these reforms, looking at what has contributed to their success and what the remaining roadblocks are. This feeds into the analysis in Chapter 6 of key lessons for successful reforms.

Box 4.3. The links between VAW, women's economic empowerment and the economy

The links between VAW and women's economic empowerment in the MENA region are not straightforward and require further analysis. There are several reasons why violence is inflicted on women. In some cases, a woman's increased independence through economic empowerment can reduce her experience of violence because she is in a less vulnerable position and no longer accepts being the victim of violence. In other cases, a woman's economic empowerment may lead her to be the victim of increased violence because her husband may fear losing control over her.

In addition, VAW carries significant costs to individuals, households, the public sector, businesses and society. Models have been developed for costing marital violence in the MENA region (UN Women/ESCWA, 2017^[19]) as well as for calculating the economic cost of gender inequalities more broadly (OECD, 2019^[2]). The model for costing marital violence in the MENA region has been piloted in Egypt. The study shows that the total cost emerging from violence for survivor women and their families alone was estimated to be at least EGP 2.17 billion (almost EUR 127 million) in a single year, based only on the cost of the most recent severe incident the woman faced (Duvvury et al., 2015^[20]).

Putting numbers on how much the economy could gain from ending violence against women is a very powerful advocacy tool for reform. The case studies show that countries have started collecting new types of data to build the case for legal reform in support of women's economic empowerment.

Box 4.4. International standards and guidance for eliminating violence against women

CEDAW is the most important standard since it includes a number of provisions on violence against women, such as general recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19, CEDAW/C/GC/35. The CEDAW Committee has expressed concern about the high levels of VAW in all publication countries, which has put additional pressure on countries to reform their legislation.²⁶

The **ILO Violence and Harassment Convention** was adopted in 2019 to combat violence and harassment in the world of work. It is now open for country ratifications (Box 4.6).

The **Council of Europe Convention on preventing and combating violence against women and domestic violence** (Istanbul Convention)²⁷ is also open for ratification by MENA countries.

There is comprehensive guidance available on the ingredients and working methods to draft legislation on violence against women, such as the UN Women's **Handbook for Legislation on Violence Against Women** (UN Women, 2012^[18]). Countries can use these tools to align their national legal frameworks with the commitments made at the international level – as Tunisia has already done.

In 2019 the OECD Development Assistance Committee adopted the **Recommendation on Ending Sexual Exploitation, Abuse, and Harassment in Development Co-operation and Humanitarian Assistance: Key Pillars of Prevention and Response**.²⁸ The recommendation sets out the first international standard in this area for governments to apply to national aid agencies and the wider international community when working with civil society, charities and other bodies running development programs or delivering humanitarian aid.

Case study 4.4. Tunisia's comprehensive legislative framework to address all forms of violence against women and girls

Violence against women in Tunisia is prevalent. In 2010 a National Survey on VAW revealed that almost 48% of Tunisian women declared having been victims of one or more forms of violence (ONFP/AECID, 2010^[21]) (see Chapter 1). This is despite the existence of a National Strategy on Violence against Women and Girls (VAW), adopted in 2008.²⁹ The strategy remained largely unimplemented until it received attention at the international level when the Committee on the Elimination of Discrimination against Women urged Tunisia to give it priority attention in 2010 and again in 2013 (CEDAW, 2010^[22]; CEDAW, 2013^[23]). This led to an important law to address VAW in Tunisia, as described in this case study.

What is the reform and how did it come about?

The attention drawn to VAW by the 2010 National Survey on VAW pushed the government to act. The Ministry of Women, Family, Childhood, and Seniors and the peer council took the lead in implementing the National Strategy on VAW (which had been updated in 2012), which recommended revising the legal framework on VAW. The ministry solicited the support of the United Nations and in 2014, a team of experts, including civil society representatives, started to prepare a first draft of the VAW Law. An ambitious initial draft law proposed revisions of the family code and the penal code but was seen as too progressive, and rejected by the Council of Ministers.

In parallel, advocacy efforts were being targeted at parliamentarians to make sure a provision on the eradication of violence would be included in the new constitution, also under discussion at the time. The new constitution was adopted in 2014 and many of its provisions protect women's rights, including Article 21, which mentions that "the State guarantees individual and collective rights and freedoms to its male and female citizens", as well as Article 46, which foresees that "the State shall take all necessary measures in order to eradicate violence against women".³⁰ At the global level, the 2030 Agenda for Sustainable Development was adopted in 2015 with Sustainable Development Goal (SDG) target 5.2 focusing on the elimination of all forms of violence against women and girls.³¹

The new constitution and its Article 46 in particular, together with SDG 5.2, provided the momentum to keep working on the draft law on violence against women and girls. An Advocacy Committee consisting of several international organisations³² was set up to make sure that the new draft law was in line with international standards on VAW (Box 4.4). More than 60 national associations formed a Civil Society Coalition on VAW to support the draft law process through research and advocacy. The law³³ was adopted in July 2017 unanimously, and entered into force in February 2018.

On 26 February 2020, a government decree³⁴ was published establishing a national observatory to eliminate violence against women. The observatory, which will be a financially autonomous public institution overseen by the Ministry of Women, Family, Childhood, and Seniors, aims to institutionalise the fight against VAW in Tunisia. Its missions will include collecting data on and reporting cases of VAW, monitoring and evaluating the legal and policy framework on VAW and formulating reform proposals. The observatory will also take part in developing national and sectoral strategies aimed at eliminating violence against women. The observatory should submit a yearly report to the President of the Republic, to the President of the Parliament and to the Head of Government, providing the evidence-base on violence against women and giving recommendations on how to improve national mechanisms to eliminate violence against women.

Content of the reform

The law is comprehensive in its approach and follows the recommendations in the "model framework for legislation on violence against women" contained in the UN Women's 2012 handbook (UN Women, 2012^[18]) (Box 4.4). It acknowledges violence against women as a form of gender-based discrimination and

a human rights violation. Furthermore, the law respects international criminal law standards, as it provides accountability, legal assistance and redress for the victims of crimes.

The law contains four axes, covering all forms of violence against women – physical, moral, sexual, political and economic violence – and all the elements required to tackle them: prevention, protection, prosecution and care for victims. Given the scope of this publication, the inclusion of economic violence is particularly interesting.

Economic violence is defined as “any act or abstention to exploit women or deprive them of economic resources, whatever their origin, such as the deprivation of funds, salary or income, the control of wages or incomes and the prohibition of work or coercion to work”. The law defines the crime of economic violence or economic discrimination based on gender. It includes the following acts:

- Depriving a woman of her financial resources or disposal over her income;
- Wage discrimination for a work of equal value;
- Discrimination in a professional career including promotion and advancement in roles and responsibilities.

The law further details this in the section on prevention where it mandates the state to take all necessary measures to eliminate discriminatory practices against women and girls, in particular regarding their remuneration and social protection, and to prohibit economic exploitation, which can take the form of hazardous and degrading work. The law thus goes very far in this regard and additional legal reforms will be required to guarantee the proper implementation of these provisions.

The law calls upon the ministries of education, higher education, vocational training, culture, health, youth, sports, children, women and religious affairs to take specific measures to prevent violence against women in their institutions. These measures include staff training in how to prevent and act upon cases of violence. Specific measures such as combating girls’ school dropouts are also mentioned.

Protection. The Ministries of Justice and Interior have also made substantive efforts in ensuring the protection of victims of violence (Art. 39). The law protects girls and women victims of violence and their children. It foresees their legal protection including legal aid and access to information as well as a referral system to specialised services (medical, psychological and social). Access to emergency accommodation is also foreseen within the limits of availability. Every person, even those held by professional secrecy, are obliged to report cases of violence. The law foresees that with approval of the State Prosecutor, the police can apply certain protection measures for the victims of violence even before the case reaches the family court. Another interesting aspect of the protection measures is the fact that the judge can order child alimony for the child(ren) of the victim of violence, to which both spouses should contribute if appropriate. This means that the judge takes into account that if the financial situation of the woman allows, she should also financially contribute to the alimony.

Prosecution. The law foresees an increased repression of perpetrators of violence by amending certain articles of the penal code. New forms of violence are included such as economic violence, child labour (Box 3.1), incest, deliberate public humiliation and political violence.

Rape is described as an act committed against women or men. The law imposes enhanced sentences for different acts of violence. It takes into consideration a number of aggravating circumstances, for example when the perpetrator has authority over the victim or when the perpetrator is the husband or ex-husband, fiancé or ex-fiancé of the victim. The law has been defined as a landmark in the region, because it no longer allows charges to be dropped when an offender who rapes a minor marries the victim, and also because it explicitly criminalises marital rape.

Care for victims. The law foresees detailed measures to provide care for the victims. It mandates the creation of a unit specialised in violence against women in the police corps of each governorate and the National Guard. This unit has to include women amongst its members. Separate spaces in courts of first

instance should be reserved for magistrates dealing with VAW cases. The law instructs the personnel in charge of the protection of victims of violence to respond immediately to each request for assistance or protection by the victim.

What are the impacts, implementation challenges and factors for success?

Tunisia's law on VAW is an impressive achievement. It is the result of close collaboration and perseverance by civil society, international organisations and government. As a first step, the evidence base was built to justify the need for the law. The team who drafted the different versions of the law included civil society representatives who had been working on violence against women for many years and were thus very conversant with the situation on the ground. The support from the Advocacy Committee played an important role in ensuring that the law was in line with international recommendations on violence against women. The law requires a yearly report on implementation so that impact can be measured over time.

Seizing the opportunity to include Article 46 in the drafting of the new constitution was a strategic move which paved the way for the continuation of the draft law process.

A number of courts have already applied the law in practice. Some examples of decisions are shared in the annex to this chapter (Annex 4.A). Nevertheless, the practical implementation of the law remains challenging for a number of reasons, though efforts to address all these challenges are underway:

- The care services and structures for female victims of violence are very limited and mostly ensured by civil society. The government relies heavily on development cooperation partners for the financial and technical support for implementing the law. A couple of months before the adoption of the new law, a 2017-2018 UN Joint Programme (led by the United Nations Population Fund) was signed on care for women victims of violence in Tunisia. Its objective is to support the government in three main areas: providing quality services for women victims of violence, establishing an inter-sectoral co-ordination and referral system for women victims of violence, and sensitisation and advocacy on violence against women (UNFPA Tunisia, 2017^[24]).
- There is little awareness of the law or of violence against women more broadly, not only by the wider public but also by service providers for women victims. Many efforts are currently being deployed to disseminate the key elements of the law to the wider public and to sensitise officials who have a role in implementing it. Media representation of (violence against) women has received special attention (Box 4.5).
- The many actors responsible for the law's implementation poses co-ordination challenges. Tunisian stakeholders have been working for a number of years on improving co-ordination, such as through the project on the Creation of Inter-sectoral Mechanisms for the Care for Women Victims of Violence in Grand Tunis 2014-2017.³⁵ This project led to five ministries (Social Affairs, Justice, Women Family and Children, Interior and Health) signing multisector co-ordination protocols in 2016, even before the new law entered into force. In 2016, the Ministry of Women's Affairs also published a mapping of services for women victims of violence or in vulnerable situations in Tunisia (UNFPA/HCDH, 2016^[25]), which should also aid in co-ordinating the different services.
- Access to justice. This may sometimes be difficult due to the lack of trained police officers and, in some cases, social pressure preventing women from filing complaints.

Box 4.5. The important role of the media

A specific article of the law (Art. 11) is dedicated to the role of the media in sensitising the wider public about violence against women and girls. The article prohibits stereotyping and media content that could be detrimental to the image of women. Specific attention has been dedicated to this topic in Tunisia and in 2016 a study came out on media treatment and journalistic practices on violence against women and girls (ATFD, 2016^[26]). In addition, a “declaration of principles on respect for human rights in media coverage of violence against women” was issued, as well as a “form on free and informed consent before the testimony of women victims of violence” (ATFD, 2016^[26]).

Case study 4.5. Reforming Jordan’s legal framework on violence against women

While there are no updated official figures on violence against women in Jordan, interviews with various stakeholders for this report (Annexes A and B) confirm that VAW is still an important problem in Jordanian society. These interviews also indicated that there is a lack of awareness in society about what VAW entails, and especially that it also includes economic exploitation. It was reported that many women in Jordan are prohibited from working by their family and those women who do work are not in control of the money they earn. In addition, violence against women is a taboo subject in Jordanian society and many women choose not to report cases of violence. Even when they do report them, they may not be supported adequately by the justice system. It has been reported that justice professionals often face social pressures to reject a claim of VAW (UN Women, 2015^[27]).

Jordan is taking steps to address these problems. This case study documents Jordan’s recent reform efforts to tackle VAW.

What is the reform and how did it come about?

In 2015 and 2016, there were several protests by women rights activists calling to end violence against women. The situation in Jordan was also increasingly being criticised at the international level. Human Rights Watch warned that honour killings were on the rise in Jordan and called for a national strategy to fight them (Coogole, 2016^[28]). The CEDAW committee urged Jordan to address the alarming increase of honour crimes and domestic violence (EuroMed Rights, 2018^[29]). A CEDAW report explicitly recommended legal reform (AWO/Mosawa Network, 2017^[30]).

Violence against women in Jordan is addressed by two different laws: the family protection law and the penal law. Following the protests and international outcry, both frameworks were revised in 2017 to give greater attention to VAW. As detailed below, the amendments to the family protection law provide additional protection to women victims of violence, increase penalties for perpetrators of violence, provide greater procedural guarantees and protect witnesses. The amendments to the penal law foresee increased penalties under some circumstances for perpetrators of honour crimes, and rapists can no longer escape punishment by marrying their victim.

Jordan’s Family Protection Law³⁶ was issued in 2017 and focuses on domestic violence. While the law does not include a specific definition of domestic violence, it considers that domestic violence occurs when committed by a family member against another member of the family (Article 2). The law defines family members to include husband and wife, children, and other relatives provided they were residing in the family home at the time of the violent act (Article 3). Hence, the law does not cover violence against women who are not part of this predefined family structure and hinges protection on being married. This may result in overlooking other forms of domestic violence that may occur outside the family home law (UN Department of Economic and Social Affairs, 2010^[31]).

- **Protection:** The Family Protection Law outlines mechanisms to protect victims of domestic violence, such as a 24-hour hotline and ability to transfer the victim to a hospital when needed (Article 6). Once the Family Protection Department is made aware of a case, it can transfer the victim to a safe house, in co-ordination with the Ministry of Social Development. The law allows the police to detain suspected abusers for 24 hours if there is no other way to ensure the protection of the victim or a family member (Article 11). The law also gives the court the right to issue a protection order at the request of the victim or any family member for a period not exceeding one month (Article 14). Furthermore, the Family Protection Department protects witnesses or other stakeholders who come forward. If court orders are violated, the perpetrator could be imprisoned for up to one month, and/or fined (though not more than 100 Jordanian dinars – JOD). Violating court orders more than once results in stricter sanctions.
- **Repression measures:** The court bases its measures on specialists' reports (psychologists, medical personnel) and can order the perpetrator to do public service for a period not exceeding 40 working hours, or to attend psychological and social rehabilitation programmes for a period not exceeding six months, in addition to prohibiting the perpetrator from visiting any place that would involve contact with the victim for a period that does not exceed six months. Failure to carry out these prescribed measures can result in imprisonment for a period that does not exceed three months (Article 11). The law also stipulates a strict requirement of complete confidentiality (Article 18).
- **Penal law reform for honour crimes.** Penalties for perpetrators of honour crimes have been increased by amending Article 98 of the Penal Law (Roya News, 2017^[32]). Article 98 used to stipulate that a perpetrator of violence could benefit from "mitigating circumstances" if he was suffering from a "severe rage tantrum" due to a false and dangerous action by the victim. Without specifying what a false and dangerous action might be, the law has been invoked to justify honour crimes. The amendment means that perpetrators can no longer escape punishment by leveraging the mitigating excuse of Article 98. However, Article 340 is still in place, which allows for a reduced sentence for a man who has murdered his wife, daughter, granddaughter, mother or grandmother after finding them in an "adulterous situation" (Albawaba, 2017^[33]). The wife can also benefit from reduced sentences if she finds her husband in an adulterous situation in her matrimonial bed. Article 308 of the Penal Code was repealed in 2017, which now means that rapists can no longer escape punishment if they marry their victim (Husseini, 2017^[34]).

Besides legal reform, the Jordanian Government has also introduced policy reforms and administrative steps to ensure the protection of women victims of violence:

- **A policy framework for VAW.** In 2016 the Government of Jordan put in place a national framework for the protection of the family from domestic violence, which encompasses violence against women, children and the elderly, though not domestic violence against men. The framework's goals are: co-ordination amongst all relevant stakeholders (health, education, police and judiciary) to provide well-rounded services; guiding principles for the prevention of and protection against domestic violence using a multi-institutional approach; a monitoring and evaluation mechanism for the application of the framework; and effective case management by creating a common language on family protection from domestic violence. In addition, the Jordanian National Commission for Women (JNCW) is in the process of developing a National Women's Strategy (2020-2025) which will include a component on VAW and gender-based discrimination in Jordan.
- **Communication on VAW.** A Communication Strategy on Gender-based Violence (GBV) was issued by the Ministry of Social Development in 2014.³⁷ Its functions include preparing brochures and campaigns to combat GBV, establishing co-operation between government and non-government stakeholders, and correcting misconceptions that justify the use of violence against women. The Sham'a Network also regularly organises VAW campaigns as well as educational and awareness activities for law enforcement personnel and the judicial system.

- **Enhanced protection for women victims.** Since there are not enough women's safe houses run by the government, women who seek state protection from the imminent danger of an honour crime (e.g. after a rape) used to be frequently detained alongside convicted criminals because they had to leverage the Crime Prevention Act. They were referred to as "administrative detainees" (Canada Immigration and Refugee Board Research Directorate, 2000^[35]). The Minister of Social Development announced that the detention of at-risk women would end completely by the end of 2018, stressing the possibility of replacing administrative detention with rehabilitation, integration and reconciliation (Luck, 2018^[36]). There are some safe houses in Jordan, but more are needed. The Family Reconciliation House in Amman was the first shelter for victims of domestic violence (Husseini, 2010^[37]). In 2018, a shelter called Dar al Amina was opened, based on Jordan's Shelters for Vulnerable Persons System covered by Law No. 171 of 2016 (UN OHCHR, 2017^[38]). The Jordanian Women's Union (JWU) also operates safe houses.

What are the impacts, implementation challenges and factors for success?

The recent reforms are mostly the result of tremendous effort by civil society and JNCW, who have been advocating for reform for decades. The reforms were able to go ahead once civil society had built the necessary political will, aided by international attention to the issue. The Women and Family Affairs Committee (Box 5.1) also played an important role in putting the issue of VAW on the agenda of parliamentary discussions and putting forward the right arguments.

Despite these important efforts, Jordan's legal framework is not yet in line with international standards for legislation on violence against women as laid out in the UN Handbook for Legislation on Violence against Women (Box 4.4):

- Although the family protection law focuses on domestic violence, the law does not include a definition of this concept. The application of the law is limited to the abuse committed by certain family members only and in certain places only. It therefore fails to adequately protect women from violence.
- The current legal framework for VAW in Jordan does not include provisions for the prevention of violence.
- The added value of the family protection law in addressing VAW as compared to the penal law may be limited. While the family protection law only deals with certain cases of domestic violence, the penal law covers all other forms of violence.
- Justice professionals often do not make adequate links between VAW addressed in the penal code and the family protection law and the fact that VAW is often the result of gender dynamics in the household, and so covered by the personal status law (treated in Sharia courts). One report indicates that Jordan does not address VAW as a human rights issue, but has treated the issue through a silo approach (UN Women, 2015^[27]).

Women's rights activists are well aware of these gaps in the legal framework. Under the leadership of JNCW, lists of proposed legal reforms on VAW are regularly developed and submitted.

Case study 4.6. Towards a comprehensive draft law on violence against women in Egypt

Over the last four decades, Egypt has taken significant steps to combat violence against women. However, the problem remains endemic and is a major obstacle to the participation of women in economic and public life, as well as being an economic cost for the country (Box 4.3 and Chapter 1). The most common forms of VAW in Egypt include sexual harassment, rape, mob violence, trafficking and stalking (Amnesty International, 2015^[39]). Inside the family, VAW occurs mainly as domestic violence, marital rape, female genital mutilation (FGM) and child marriage. Egyptian authorities realise the seriousness of the situation

and have recently taken important actions to address it. This case study gives an overview of these recent legislative and policy initiatives, paying particular attention to sexual violence, domestic violence and harmful practices (early marriages and FGM).

What is the reform and how did it come about?

The Egyptian Government has made several efforts to combat VAW on both the legislative and policy front. A first important achievement was to include the prohibition of VAW in the 2014 Constitution (Articles 11 and 60).

While the national strategies dealing with VAW are comprehensive, the Egyptian legal framework is less complete. Firstly, VAW is covered in different legal frameworks that sometimes overlap or leave gaps. Secondly, the legal framework on VAW lacks a comprehensive definition of the different forms of violence.

Sexual violence (rape and sexual harassment)

Egypt's penal code criminalises rape and was amended in 2014 in order to also criminalise sexual harassment. While this is a step in the right direction, the penal code's definitions of rape and sexual harassment are too narrow, and as a result many acts of violence are not covered.

Article 267 of the penal code criminalises rape. Without using the formal term rape (*ightisab*), the article says that sexual intercourse with a female without her consent brings a penalty of aggravated or life imprisonment.³⁸ According to Article 267, rape is understood to only include vaginal penetration, although the Code provision itself does not say so.³⁹ The definition of this article has been developed based on court verdicts and commentaries.⁴⁰ A major reform was adopted in 1999, when Egypt repealed by presidential decree Article 291 of the penal code so that rapists could no longer escape prosecution by marrying their victim.

In 2014, a presidential decree⁴¹ was issued to amend the penal law, introducing a definition of sexual harassment and imposing stricter penalties.⁴² Until then, no definition of sexual harassment had been included in the Penal Code, and no methods of proving it were foreseen. This amendment, commonly known as the “anti-harassment law” criminalises sexual harassment in the form of words, gestures and actions expressed in person or through other means of communication. The law also includes a clause on harassment in the workplace, and stipulates a more severe sentence for an offender who is in a position of authority over the victim. While these are improvements over the situation before the amendment, the amendment's description of sexual harassment is too limited. The amendment describes sexual harassment as an act committed with “intent to receive sexual gratification from the victim”. According to the law, an act can only qualify as sexual harassment if it was motivated by the sexual desires and fulfilment of the offender. This provision is in contrast with international standards such as CEDAW, which prescribe a broader definition of sexual harassment as any act that the victim regards as offensive, humiliating or intimidating.⁴³

Al-Azhar, Egypt's highest religious authority, recently took a stand and published a statement which stressed that “Harassment is a forbidden and deviant behavior, as it encroaches on the privacy, freedom and dignity of women. Justifying harassment with the women's clothing shows a misinterpreted understanding of the issue” (Magdy, 2018^[40]). Rulings of Al Azhar and Dar el Iftaa are advisory legal opinions and are not legally binding, but due to the importance of these institutions, they are usually taken into consideration by society as a whole. Judges also refer to such opinions in their legal reasoning.

Domestic violence

In Egypt, domestic violence is not criminalised as such. Several articles in the Penal Law even give the impression that domestic violence is somehow tolerated. Article 60 states that “the provisions of the Penal Code shall not apply to any deed committed in good faith, pursuant to a right determined by virtue of the

Sharia". Therefore, a beating husband (or father) can be exonerated if it is argued that he disciplined his wife (or daughter) with good intentions (in good faith).⁴⁴

Honour crimes can be considered as an extreme form of domestic violence. There are no official statistics on honour crimes in Egypt, but it is commonly known that these crimes are happening and they are sometimes also reported in the media (Nazra for Feminist Studies, 2014^[41]). In Egypt, the perpetrator of an honor killing can get a reduced sentence according to Article 17 of the penal law, which gives the judge extensive discretionary power to apply clemency (Mecky, 2016^[42]). In addition, Article 237 of the Penal Code states that "the husband who surprises his wife in the act of committing adultery, and instantly kills her and her partner, shall be punished by imprisonment, instead of the penalties determined in Articles 234 and 236 of the Penal Code". Using Article 237 usually leads to a maximum of one year in prison for a husband who has killed his wife.

The penal code should also be read together with the **personal status laws**, which are disempowering female victims of domestic violence. Domestic violence is not necessarily a reason for divorce, as the law evaluates harm as what is "impossible for the likes of them" (i.e. what is deemed impossible to accept by the individual in question).⁴⁵ It is left to the judge's discretion to decide what a wife would find impossible to accept.⁴⁶ Further, women frequently face lengthy and expensive court procedures to prove that they have suffered harm, and the violence needs to be witnessed by at least two men, or one man and two women. These witnesses must have seen and heard the acts of harm (Bernard-Maugiron and Dupret, 2008^[43]). A widespread form of domestic violence in Egypt is **marital rape**, which still remains a taboo subject. A wife is expected to sexually satisfy her husband as part of the marriage contract. The act of a husband forcing his wife to have sexual intercourse without her consent is therefore not considered a criminal offence.

Early marriages

Early marriages do not only entail a violation of the rights of the child, but also have large economic costs. It has been documented that ending child marriage in Egypt could generate an additional USD 2 893 million in earnings and productivity (Wodon, Savodogo and Kes, 2017^[44]). Ending child marriage can improve health at the individual and population levels, increase productivity and enhance the opportunity to realise the gains in a country's economic growth that can result from declining birth rates and a shifting population age structure, commonly referred to as the "demographic dividend". Concrete actions to fight child marriage began to be taken in the 2000s, with the National Council for Childhood and Motherhood (NCCM) launching a programme on the empowerment of girls. The Child Law was amended in 2008, raising the minimum age for marriage from 16 to 18 years for both boys and girls.⁴⁷ The law does not explicitly prohibit early marriages, but prevents them from being registered. As a result, early marriages continue to be concluded informally without registration. Therefore births cannot be registered either if the mother is a minor.

In 2014, Egypt published a five-year national strategy to prevent child marriage (Ali, 2019^[45]). The strategy called for an update and improvement of the legislative framework to protect the child. In June 2018, Egypt's Government proposed a new draft law that includes amendments to Article 12 of the Child Law, introducing harsher penalties to those involved in marrying off girls and boys (e.g. the guardian, the marriage registrar), who are below the current legal marriage age of 18 (Ali, 2019^[45]).

Female genital mutilation (FGM)

FGM is a major obstacle to the economic empowerment of women, as it undermines girls' opportunity to receive an education and improve their skills. Within some communities, FGM marks the beginning of adult life and is often followed by marriage. Women who have undergone FGM experience extremely negative consequences both for their physical and psychological wellbeing, thus their ability to find a job, build a successful career, or start a business is heavily compromised.

Egypt has been a pioneer in the fight against FGM, a harmful and traditional practice affecting more than 28 African countries, and some populations in Middle East and Southeast Asia. Egypt played a crucial role in overcoming the secrecy that surrounded FGM and removing the religious pretext.⁴⁸ At the beginning of 2000, data from the National Council for Childhood and Motherhood (NCCM) on the high number of women and girls having undergone FGM attracted the interest of Suzanne Mubarak, Egypt's first lady at the time. She convened an international conference gathering governments and anti-FGM activists from all affected countries. It was the first time that the issue was publicly brought up at the highest level. In 2007, both the Sheikh of Al-Azhar and the Patriarch of the Coptic Church made the point that FGM has no basis in Islam or Christianity and, as such, it contradicts religious teachings. This came after an 11-year-old girl died while undergoing the procedure at a private medical clinic in southern Egypt.⁴⁹

A huge international campaign to end FGM began. In Egypt, the campaign led to the adoption of Child Law No. 126 of 2008, which amended the penal code and criminalised FGM, punishing anyone who practices or asks to practice FGM, including the parents. The government also established a hotline for reporting FGM crimes and undertook actions in rural areas to sensitise people about the law. Following the Egyptian example, most of the affected countries have passed ad-hoc laws banning FGM. In 2016, parliament amended the Child Law, introducing tougher penalties. A National FGM Abandonment Strategy 2016–2020 was formulated to enforce existing laws against FGM and to monitor progress in order to reduce the prevalence of FGM for future generations in Egypt.⁵⁰ In 2018, the Islamic Research Institute Dar el Iftaa issued a significant ruling stating that “FGM is religiously forbidden and that the practice is not required under Islamic laws and should be banned, as it mutilates the most sensitive organ in the female body” (Saad, 2018^[46]).

However, ending FGM remains an important challenge for the country. While the legal framework has improved significantly, it is now a matter of implementation and enforcement.

Strategies and a comprehensive draft law to eliminate violence against women

In 2010 the CEDAW issued its latest report on the elimination of discrimination against women in Egypt.⁵¹ The legal framework on VAW was, notably, one of the weaknesses outlined by CEDAW, which urged Egypt to adopt a comprehensive law criminalising all forms of VAW and to develop a coherent and multi-sectoral action plan to combat it. The government undertook a set of actions meant to comply with CEDAW's concluding observations:

- **A comprehensive draft law on VAW.** The National Council for Women (NCW) developed a comprehensive draft law that was submitted to parliament in 2013. The draft was however never discussed due to the dissolution of the legislative branch. NCW's draft law provides definitions of VAW and contains provisions on forced and child marriage, domestic violence (though it is not defined) and prevention of education. The law also includes provisions on economic violence: Article 7 prohibits denying a woman the right to work and Article 8 covers violations of equal opportunities for women and men at work (FIDH, Nazra for Feminist Studies, New Women Foundation, 2014^[47]). The Ministry of Justice is currently working on this draft law and needs to submit it to parliament⁵².
- **The National Strategy for Combating Violence Against Women (2015-2020).** This was drafted to achieve a secure community free from all forms of violence and that guarantees protection to women (NCW, 2015^[48]). The strategy addresses topics that include prevention, protection, care, repression and access to justice, and calls on the government to move towards a revision of existing laws and to reduce the duration of legal proceedings (Reda, 2017^[49]).⁵³ The most important aspect of the strategy is that it provides definitions of violent acts against women.⁵⁴ Economic violence is also included as a specific topic, defined as “preventing women from obtaining fundamental resources or controlling the same.” A range of government institutions were

responsible for implementation, but so far no review has been carried out and there is no detailed information available about its implementation or results.

- **The National Strategy for the Empowerment of Egyptian Women 2030.** This absorbed the National Strategy for Combating Violence Against Women, and was launched in March 2017 (NCW, 2017^[7]). The strategy focuses on different kinds of VAW under the pillar on women's social empowerment. It emphasises the need to work on eliminating all harmful and discriminatory practices in both the public sphere and within the family, and to facilitate women's access to justice (Box 4.1).
- **Strengthening the institutional framework.** Significant efforts have also been made to strengthen the institutional framework and the range of legal and support services provided by state institutions. For instance, in 2013, a Department for Combating VAW was established within the Interior Ministry to increase women's awareness of their rights, encourage them to report violent crimes, and explain the support available from the NCW and the office of the Public Prosecutor (UNDP, 2018^[50]). Between 2015 and 2018, the NCW worked intensively with local communities, mainly in unprivileged areas, to familiarise them with its role and the support it can provide, and to raise awareness of harmful practices such as child marriage and FGM (Egypt Today, 2018^[51]). A number of trainings have been organised by the NCW over the last six years, for instance for officials authorised to perform marriages to improve their competence in dealing with problems related to VAW (UNDP, 2018^[50]).

What are the impacts, implementation challenges and factors for success?

Analysis of these reforms have to be set against some important historical context. The momentum for improving the empowerment of women by reforming the existing legal framework as well as tackling restrictive social norms proved to be difficult to maintain in the first years of post-Mubarak Egypt (2011-2013). In 2012, the first elected parliament of the new era repeatedly sought to repeal most of the laws that were bringing the country closer to international standards on women rights, such as the law on divorce, the law criminalising FGM and the law criminalising trafficking. Soon after Mubarak's resignation and when Mohamed Morsi took office in June 2012, the narrative of women's duty to stand one step behind men resonated with many Egyptians, especially in remote areas, reviving conservative values. The national momentum against FGM suffered a huge setback. From December 2010, no village declaration against FGM was made.

As a result, the aspirations of the women's movement for more rights waned, lacking popular support and political space. In parallel, public institutions that used to be major players in making the legal framework on women and girls progress, like the NCCM, became disempowered. In addition, the government stopped allocating resources for implementing existing laws. Political instability and insecurity contributed as well to slowing down Egypt's efforts towards gender equality in 2012-2013. A renewed impulse for reform grew out of Morsi's removal from office in 2013, however.

All the initiatives undertaken so far are a concrete sign of Egypt's genuine commitment to putting women on an equal footing with men. Despite this progress, the legal framework is still not in line with international standards on VAW when it comes to definitions (e.g. narrow definitions of rape and sexual harassment) and it is still very difficult for women victims of violence to access justice. It seems therefore reasonable to expect the government to reinforce and extend its action by promoting new reforms and increasing measures to enforce and implement the legislative tools, thus aligning the country with internationally recognised standards. In addition, combating stereotypes and restrictive social norms by developing awareness and transforming prejudices concerning gender roles is essential, and requires considerable effort.

Action is also required to include civil society in the decision-making process, both to build the necessary consensus and to take into account the specific needs of women's organisations working on the ground.

For example, there has been criticism about the fact that NGOs were not consulted in the drafting process of the comprehensive law on VAW, despite their extensive experience on the subject⁵⁵. The government recently took steps to soften the more controversial aspects of the 2017 law regulating the work of civil society in Egypt, by adopting the Law N. 149 of 2019. The new text excludes prison penalties in case of violations and replaces them with fines, but still makes it challenging for NGOs to carry out their work (Human Rights Watch, 2019^[52]). As advocating for women's rights in a context of ongoing political transition is already a tough challenge, co-operation between state institutions and non-government stakeholders is even more important, and needs to be strongly encouraged.

Case study 4.7. Enhancing Morocco's legislation on violence against women

In Morocco, although the prevalence of psychological violence fell from 58% to 49% between 2009 and 2019, economic violence rose from 8% to 15% over the same period (High Commission for Planning Morocco, 2019^[53]). The previously mentioned study by UN Women and Promundo indicates that there is a strong belief that women should tolerate violent treatment of their spouse to keep the family together (UN Women/Promundo, 2017^[54]). This opinion is not only shared by men (60% in Morocco), but also by women (46% in Morocco). A large share of men still believe that there are occasions where a woman deserves to be beaten. Approximately 75% of male respondents in Morocco used a woman's "provocative" dress to legitimise their acts. More women agreed with this idea than did their male counterparts.

Morocco had already issued a national strategy to fight gender-based violence in 2004. In 2005, an implementation framework for the strategy was issued.⁵⁶ The First Government Plan for Equality (PGE I 2012-2016)⁵⁷ also includes eliminating violence against women as one of its priority topics. The Second Government Plan for Equality (PGE II 2017-2021) also mentions a comprehensive legal framework to combat all forms of violence against women.

Morocco has made efforts to report on the VAW situation in the country, with the first important overview of VAW published by the national statistical office (HCP) in 2009. In 2014, the National Observatory of Violence against Women was re-established, which has so far issued two reports on VAW. Unfortunately, the reports are not available on the website of Ministry of Solidarity, Social Development, Equality and the Family (MSDSEF) and it seems difficult to compare reports over time since the indicators and data may not all be comparable.

In August 2018, a new law to combat violence against women entered into force which included amendments to the penal code.⁵⁸ The UN human rights treaty bodies have repeatedly called on Morocco to adopt this legislation,⁵⁹ while activists and women's organisations had been advocating for over a decade for a comprehensive legal framework on violence against women. The process started in 2013, when a draft law was submitted to Cabinet. MSDSEF submitted the draft law to parliament in 2016. Despite strong lobbying efforts by women's rights organisations to improve protections (see last section in this case study), parliament approved the law in February 2018 without further changes (Human Rights Watch, 2018^[55]). This process happened in parallel to the design of PGE II.

What is the reform and how did it come about?

The law on violence against women contains 17 articles and 6 chapters.⁶⁰ Detailed analyses of the law have been issued by the United Nations Development Programme in its recent report on Gender Justice and the Law, as well as by Human Rights Watch.⁶¹ This section gives an overview of the law's content.

- **Definition of VAW:** The law defines violence against women as "any act or abstention based on gender discrimination resulting in physical, psychological, sexual or economic harm to the woman". Economic violence is defined as "any act or omission of an economic or financial nature that affects or is likely to affect women's social or economic rights" (Art. 1). While certain forms of domestic violence are criminalised, marital rape is not covered by the law.

- **Prevention:** Article 17 focuses on the prevention of violence. It urges the relevant state institutions to take all necessary measures to prevent violence against women, such as policies and programmes that raise awareness of VAW, improve the image of women in society and sensitise women on their rights.
- **Protection:** The law foresees protection orders that prohibit a person convicted of a crime of violence against women or minors from contacting, approaching, or communicating with the victim (Art. 5, introducing Art 88-1 and 88-3 of the penal code). This option can only be applied if a criminal prosecution is launched against the perpetrator.
- Article 10 foresees setting up cells in various institutions (courts, government agencies and security forces), specialised in providing support to women and child survivors of violence. According to UNDP, these cells have been set up in all Courts of First Instance and Appeals Courts. The national police force and gendarmerie have set up similar structures within local stations (UNDP, 2018^[56]).
- **Repression:** The law provides for more severe penalties for perpetrators of violence when it is committed within the family (Article 4). The law also introduces new crimes, including forced marriage, squandering money in order to avoid the payment of alimony or other amounts due as a result of a divorce, preventing a wife from returning home, sexual harassment in public spaces as well as cyber harassment. The penalties for sexual harassment are doubled if the perpetrator is a work colleague of the victim or a person in charge of keeping order and security in public places (Human Rights Watch, 2018^[55]).
- **Care:** The law foresees the establishment a national commission in charge of the support and care of women victims of violence. The commission is mandated to ensure the communication and co-ordination between different government departments that deal with VAW. The commission should issue a yearly progress report (Art. 11-12). This commission was set up in September 2019. The law mandates that similar commissions should also be created at regional and local levels, which should develop action plans on VAW in coordination with civil society organisations present in their area (Art 13-16). It is not clear whether these commissions have already been set up.

What are the impacts, implementation challenges and factors for success?

This law is a step in the right direction and is very necessary given the high rates of VAW in the country. However, the law has been criticised by Human Rights Watch⁶² as well as women's rights groups. These bodies issued memorandums with suggestions on how to improve the law when it was still in the drafting stages. They also suggested how it could be aligned with international standards on VAW, such as the UN Women Handbook on legislation on violence against women (Box 4.4). Most of these suggestions were not fully taken into consideration and the government has been criticised for not including civil society in the discussions around the draft law. The following are the main shortcomings of the law:

- While the law includes quite a broad definition of VAW, marital rape is not included in the definition and only certain forms of domestic violence are included.
- While the law provides new protections for survivors, it should go still further. It currently specifies that protection orders can only be issued if violence survivors file for criminal prosecution. In addition, the protection orders can be annulled if spouses reconcile, which puts pressure on women to drop such orders. Most shelters to accommodate GBV survivors are operated by NGOs and the existing space is insufficient. The government is currently creating 'multifunctional spaces' for women which include shelter, counselling, social and legal services to violence survivors.
- The institutional aspects of dealing with VAW can still be improved. The law does not clarify the duties of police, prosecutors, or investigative judges in VAW cases. While cells have been set up in some institutions to provide support to women and children survivors of violence, many of them are ineffective (Human Rights Watch, 2016^[57]).

In Morocco, VAW cases are generally dealt with in the family as they are still largely considered a taboo subject. This constrains women's access to justice. When women do have the courage to report cases of violence, they are often not taken seriously by the police (Human Rights Watch, 2016^[57]). It is also documented that female witnesses' testimonies in violence cases are often not considered as being as reliable as men's testimonies (UNDP, 2018^[56]).

Strong points of the law include the fact that economic violence is included in the definitions and the law foresees severe penalties for sexual harassment in the workplace.

The inclusion of the prevention aspect in the VAW law is also important given existing gender stereotypes. Morocco has issued a law on audio-visual communication with important provisions to ensure against gender discrimination and stereotyping in the media. It has also created a National Observatory for the Improvement of Women's Image in the Media (Case study 5.2). These initiatives could contribute to an improved image of women in society. However, further awareness raising on the content of the law is needed.

The government reported that they are currently finalising a national strategy on VAW 2030. This strategy may address some of the concerns mentioned above (Amrani, 2019^[58]). The recent establishment of the national commission for women victims of violence is a step towards enhancing co-ordination among the relevant institutions, as well as towards the concrete implementation of the law.

Key lessons on reforms to tackle violence against women

The lessons drawn from the four case studies above are grouped into three areas: mechanisms for engaging in attitude change and reform; the content of reforms; and implementation:

Mechanisms for engaging in attitude change and reform

- **Building the evidence base.** All publication countries have made substantive efforts to build the evidence base on VAW using surveys to document the magnitude and forms of VAW at the national, and sometimes sub-national, level. Building the evidence base has been critical in order to advocate for law reform in all countries. While survey data cannot be compared across countries or over time, since the indicators and survey methodologies do not correspond, there are similarities in the results. The incidence of VAW is high in all countries and is common in both public and private spheres. It is also important to understand the reasons behind VAW. This is being explored in some countries, for example through the International Men and Gender Equality Study in Egypt and Morocco, which maps the attitudes of men and women towards violence. A range of evidence-based advocacy methodologies have been developed, such as the model to estimate the costs of marital violence piloted in Egypt (Duvvury et al., 2015^[20]) described in Box 4.3 above.
- **Advocacy.** In all publication countries, both the international community (e.g. CEDAW, Human Rights Watch) and various national actors (including civil society and human rights organisations) are putting pressure on law makers and making suggestions on how to align national legal frameworks for tackling VAW with international standards. For example, in Tunisia, an advocacy committee consisting of international organisations was set up to make sure that the draft law on VAW was in line with international standards. Not all countries have taken these suggestions into account. In most countries, civil society has advocated for a very long time for legal reforms and is still advocating, since some of the reforms are not sufficient to address VAW adequately.
- **Using strategies and policies to complement the national legal framework on VAW.** Drafting policies and strategies on VAW is easier than reforming legislation since they are not binding and only a limited group of stakeholders has to validate them. Morocco (2004) and Tunisia (2008) had national strategies to fight VAW in place before they engaged in legal reforms. Egypt has

developed a strategy on VAW more recently (2015), and Jordan issued a National Framework for Family Protection against Violence in 2016. Both are more comprehensive than the countries' legal framework on VAW. It is interesting to note that Jordan's Family Protection Framework does not only cover violence against women, but also looks at violence against children and the elderly. National plans on (gender) equality also take into account the issue of VAW. For example, Morocco's Plan for Equality, Egypt's Strategy for the Empowerment of Egyptian Women 2030 (Box 4.1) and Jordan's National Women Strategy 2020-2025 (currently under development) all include VAW as an important pillar.

Content of the legal reforms

- **Definition of VAW.** Not all countries have defined VAW adequately in their legal frameworks. This is a major concern since it means that many types of violence are not even covered by the law. Tunisia has the most comprehensive definition of VAW in its law, and is also the only country that criminalises marital rape. It is interesting to note that Tunisia and Morocco have both included the aspect of economic violence in their legal frameworks on VAW. Tunisia is very thorough, including unequal pay and hazardous/degrading work in the definition of economic violence. However, additional measures will be necessary to ensure the implementation of the provisions on economic violence since equal pay for work of equal value is currently not guaranteed in Tunisian legislation (Chapter 2).
- **Sexual harassment in the workplace.** Countries have made reforms to address sexual harassment in the workplace (Box 4.6). The new VAW laws in Tunisia and Morocco double the penalties for the perpetrators of harassment if they have authority over the victim. In Egypt, a reform of the penal law has introduced sentences for sexual harassment and stipulates more severe sentences for perpetrators with authority over the victim. In Jordan, Bank El Etihad has issued a sexual harassment policy (Case Study 2.8). In addition, ILO member states are actively encouraged to ratify the recently adopted Violence and Harassment Convention (No. 190) and integrate its provisions into their national legal and policy framework. In the MENA region, Egypt, Morocco and Tunisia have initiated preparatory measures to analyse their national policy framework, and so are gearing up to put an end to violence in their workplaces.
- **Prevention of violence.** Only Tunisia and Morocco have included provisions on the prevention of violence in their legal frameworks on VAW. Egypt and Jordan's VAW strategies also address the prevention aspect. Morocco and Tunisia's legal frameworks on VAW call on state institutions to take specific measures to prevent VAW. The laws of both countries recognise the important role of the media in preventing VAW by avoiding gender stereotyping. The media aspect is addressed in Tunisia's VAW law, while Morocco addresses this in its law on audio-visual communication.
- **Repression of perpetrators.** The reforms in all countries foresee increased repression of perpetrators of VAW and have included new types of crimes in their legal frameworks. For example, Tunisia has included child labour, political violence, harassment in the workplace and psychological violence as new forms of violence. Morocco has now made forced marriage and cyber harassment punishable. Egypt has made sexual harassment through modern means of communication punishable and more severe penalties are foreseen for perpetrators of FGM. Through legislative reforms in Egypt (1999), Tunisia (2017) and Jordan (2017), rapists can no longer escape punishment by marrying the victim. While increased repression is a step forward, it should go hand in hand with strengthening measures to prevent VAW.
- **Protection of women.** Some countries have reformed their legislation to strengthen the mechanisms to protect women who have experienced violence. The Tunisian law foresees that with approval of the State Prosecutor, the police can apply certain protection measures for the victims of violence even before the case reaches the family court. The family court can then issue protection orders. Protection orders are possible in Morocco, but only when a criminal prosecution

is launched against the perpetrator of violence. The orders can be annulled if spouses reconcile. In Jordan, the law introduces increased channels of reporting and details the duration and conditions of protection orders.

- **Care for victims.** While the legislative reforms in almost all countries address care for women who have experienced violence, implementation remains problematic. Providing care for women who have experienced violence is difficult since it requires co-ordination among several institutions and also requires investment in care facilities. Most of these facilities are currently operated by NGOs, which are often under-resourced. Tunisia's VAW provides for legal aid, access to information, emergency accommodation and a referral system for victims of violence. It also mandates specialised VAW units at police stations and courts. A UN Joint Programme on care for victims of violence supports the implementation of the law. Morocco's law foresees establishing national, regional and local commissions in charge of the support and care for women victims. Morocco's law also foresees setting up specialist cells and multifunctional spaces within various institutions to provide victim support. Jordan has opened a shelter for women at risk of honour crimes to avoid their need to be detained to keep them safe. In Egypt, VAW units were set up in some police departments and a forensic medicine department specialised in VAW has been set up at the Ministry of Justice.

Implementing the reforms

While the reforms are a step in the right direction, their application may remain challenging without addressing implementation challenges:

- **Changing perceptions.** The entrenched nature of gender inequality within MENA society is an important driver of VAW. These inequalities are in turn caused by discriminatory legislative frameworks and social norms which exist in MENA. Recent legislative reforms can only be implemented effectively if perceptions and social practices change. A shift in perception and public opinion on VAW is noticeable in some publication countries, for example with religious authorities and leaders of the region taking a stand on VAW. Social media is also playing an important role in breaking the taboos around VAW. Many countries have started programmes that focus on a change in mindsets and attitudes around VAW and engaging men and boys in the conversation (Annex 1.C in Chapter 1).
- **Sensitisation and awareness raising.** Since most of the reforms are fairly recent, people need to know about the mechanisms available to address VAW. Stakeholders in all publication countries mentioned that there is not only low awareness on VAW amongst the wider public but that there is also a need to sensitize institutions who have a role in implementing VAW legislation. A good example is the legal clinic on VAW organised in Tunis' University of Carthage Law Faculty, which makes future legal professionals aware of the VAW law. Furthermore, justice professionals should make the linkages between different types of legal frameworks that also influence VAW. In Tunisia an extensive definition on economic violence is included in the VAW law which also influences women's labour rights. In Egypt and Jordan, violence is sometimes justified in the public opinion as well as in courts if the wife did not obey the husband since the personal status laws of these countries still support the notion of a wife's duty to obey.
- **Access to justice.** Further efforts are needed to help women access justice. While some courts are already applying the recent legal reforms, often women do not report violence as it remains a taboo subject and because they fear repercussions. Recent reforms in all the countries have strengthened the protection and institutional co-ordination systems for women victims of violence who have decided to report. However, women are often pressured to drop the charges.
- **Regular monitoring** of the implementation of legislation is crucial for ensuring results. The VAW law in Tunisia provides for monitoring and evaluation of the implementation of the law. A National

Observatory on VAW has been established, which should submit yearly reports to the government and parliament on the situation of VAW and how this is being addressed. The Moroccan legislation on VAW foresees the setting up of a national commission in charge of the support and care for women victims of violence as well as the coordination of government actors concerned with VAW. This commission would also have to submit yearly progress reports.

Box 4.6. In-depth: ending violence and harassment in the world of work

ILO's Violence and Harassment Convention

On 21 June 2019, the 187 member states of the International Labour Organization (ILO) adopted, with an overwhelming majority, the Violence and Harassment Convention (No. 190) and its accompanying Recommendation (No. 206). It was the highlight of the organisation's centenary celebrations.

Violence and harassment in the world of work is defined in the convention as “a range of unacceptable behaviours and practices, or threats thereof, whether a single occurrence or repeated, that aim at, result in, or are likely to result in physical, psychological, sexual or economic harm, and includes gender-based violence and harassment.” The term “gender-based violence and harassment” means “violence and harassment directed at persons because of their sex or gender, or affecting persons of a particular sex or gender disproportionately, and includes sexual harassment”.

Violence in the workplace manifests itself in different forms, from employers to workers and vice versa, between workers, or towards service providers, but is mostly characterised by power relations, gender discrimination, and pervasive social and cultural norms which make a mockery of respect and dignity at work.

The standards apply to all persons in the world of work: jobseekers, interns, informal sector workers, part-time workers, rural workers, home-based workers, domestic workers, volunteers. They also cover all spaces linked with work, including areas for washing and sanitation, changing rooms, during social outings, within transport facilities, at training, or any other work-related event. The new standards include workers facing domestic violence because of its negative consequences at work such as higher turnover of staff, lower productivity, higher health care costs, a stifling work atmosphere, and the instigation of fear.

The instruments acknowledge that some categories of workers are more likely to encounter violence within the world of work. Women by default bear the biggest brunt of violence. Migrant workers, young and old workers, and workers with a disability all face heightened risk of violence and harassment. The instruments also recognise that workers in certain sectors are more likely to encounter violence – these include health care, emergency services, education, transport, domestic work, and the informal economy.

The instruments ask for members to adopt legislation, either criminal or in their occupational safety and health hazards. They suggest various measures to overcome violence and harassment, including prevention, victim protection and rehabilitation, adequate sanctions, effective remedies, counselling, confidentiality clauses, training and awareness, and the right to withdraw from a work situation where violence is looming.

The adoption of these new international labour standards is an affirmation that violence and harassment are a global phenomenon. ILO member states are actively encouraged to ratify Convention No. 190 and integrate its provisions into their national legal and policy framework. In the MENA region, Egypt,

Morocco and Tunisia have initiated preparatory measures to analyse their national policy framework, and so are gearing up to put an end to violence in their workplaces.

MENA initiatives to address violence and harassment at work

In order to prepare for the 2018 International Labour Conference, ILO prepared a background report on violence and harassment at work (ILO, 2018), which showed that worldwide, the MENA region is least advanced in terms of legislation on sexual harassment in the workplace. In none of the MENA countries surveyed do employers have a duty to take steps to prevent sexual harassment. World Bank data indicate that only 6 out of 20 MENA countries surveyed have any type of legislation on sexual harassment in employment. In all other regions of the world, the majority of countries have legislation in place (World Bank, 2018).

The ILO background report furthermore explains that Article 13c of the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa (Maputo Protocol) foresees that state parties should "ensure transparency in recruitment, promotion and dismissal of women and combat and punish sexual harassment in the workplace" (Maputo Protocol). A range of African countries have ratified the protocol and adopted legislation on harassment in the workplace. Of the North African countries, only Algeria, Djibouti, Libya, Mauritania and Tunisia have ratified the protocol. Egypt and Morocco have neither signed nor ratified the protocol.

However, the case studies do show that countries have made reforms and/or taken initiatives to address sexual harassment in the workplace. The new VAW laws in Tunisia and Morocco double the penalties for the perpetrators of harassment if they have authority over the victim (Case Studies 4.4 and 4.7). In Egypt, a reform of the penal law has introduced sentences for sexual harassment and stipulates more severe sentences for perpetrators with authority over the victim (Case Study 4.6). In Jordan, Bank El Etihad has issued a sexual harassment policy (Case Study 2.8).

Source: ILO (2019^[59]), *Violence and Harassment Convention, 2019*; ILO (2019^[60]), *R206 - Violence and Harassment Recommendation, 2019*; ILO (2018^[61]), *Ending violence and harassment against women and men in the world of work*; ILO (2009^[62]), *ILO Resolution concerning gender equality at the heart of decent work, ILC 2009*; World Bank Group (2020^[14]), *Women, Business and the Law 2018*.

4.5. Conclusions and recommendations

This chapter indicates that while restrictive social norms and discriminatory laws on women's personal status remain in place, the momentum for change is growing. Important discussions are taking place in the region on equal inheritance and protecting women's rights to inherit. In addition, some countries are enhancing women's rights to transfer their nationality. Egypt, Jordan, Morocco and Tunisia have all revised their legislative framework in order to address violence against women and girls. In this final section we provide more detailed conclusions and recommendations on inheritance, marriage and nationality, and VAW.

Inheritance

Women's inheritance rights are critical to their economic empowerment. Increased inheritance will lead to greater financial security, which in turn may increase women's economic empowerment. For decades, men in the four countries have been inheriting more than women and different arguments have been invoked to justify this inequality. The general rule in the family law of the four countries is that female heirs are entitled to only half the share to which men are entitled. Establishing equality in inheritance is a very difficult and sensitive undertaking. Touching on men's financial dominance is ultimately about touching power dynamics in the family and in societies more broadly.

Intense debate is taking place across the region on this topic. While these discussions have not yet resulted in legal reforms that guarantee equality in inheritance, the fact that debate is happening is already an achievement. Each country will evolve at its own pace and when the right political moment arrives, stakeholders will be ready to once again push for equality in inheritance. Meanwhile, countries are taking steps towards at least guaranteeing women's existing inheritance rights.

The following recommendations emerged from the case studies:

- Raise awareness of women's inheritance rights. These awareness-raising efforts should target both women and men.
- Provide legal assistance to women who wish to claim their inheritance rights.
- Train state officers involved in decisions and procedures related to inheritance in women's rights and practices in society that may impede the implementation of these rights.
- Ensure enforcement of court decisions in favour of women's inheritance rights.
- Enshrine equality in inheritance in national legislation in order to align this legislation with equality principles that are guaranteed by countries' constitutions.
- Since the former recommendation may be difficult to achieve in the current political climate, countries should continue the debate on equality in inheritance for women and men. The debate should be based on facts and held in a spirit of openness.
- Exchange experiences and good practices on women's inheritance across the region.

Marriage and nationality

Nationality legislation continues to be discriminatory along gender lines. Male citizens of the four countries can transfer their nationality to a foreign spouse, but female citizens mostly cannot. Countries have made some encouraging reforms, however. Tunisia now allows women to transfer their nationality to a foreign spouse (under certain conditions). Tunisia has even gone a step further to allow Tunisian women to marry non-Muslims. Egypt, Morocco and Tunisia allow women to transfer their nationality to their children. In Jordan, however, women are not allowed to transfer their nationality to their children, which poses particular problems for the children when their father is not Jordanian. With the large population of refugees in Jordan, mixed marriages are increasingly common, so this currently concerns around 360 000 children.

On the other hand, Jordan recently amended its labour law to give individuals with Jordanian mothers and foreign fathers the same labour rights as Jordanian citizens.

The following recommendations emerged from the analysis:

- Revise nationality and marriage legislation, giving women equal rights to transfer their nationality to spouses and children. Full legal equality should be ensured with no differences in transfer procedures for women and men.
- Facilitate the labour force participation of foreign spouses and their children.

Violence against women and girls

Between 2014 and 2018, a range of legal, institutional and policy reforms on VAW took place in all publication countries. There is momentum in the region to push these reforms forward, with countries inspiring each other and capitalising on each other's achievements. This impetus is welcome given the high rates of VAW across the region.

While these reforms are a step in the right direction, it is unfortunate that in most of the countries covered by the publication they are not in line with international standards on VAW. The reforms have focused mostly on increased repression of perpetrators, with some attention on protection and care for women victims of violence. While some countries have broadened their definitions of VAW, many acts of violence are still not covered under the legislative framework. Economic violence has been recognised as a specific form of violence in the legal frameworks of Morocco and Tunisia; jurisprudence will show how these provisions of the law are being implemented in practice.

Progress has also been made on the institutional front. The legal reforms have been a catalyst for reforming the way in which the justice system treats women victims of violence and have allowed for better co-ordination of state institutions. Additional services for women victims of violence have been made available.

The biggest challenge remains in addressing the social norms that underpin VAW and in changing attitudes towards it so that violence can be prevented. While the growing momentum has made discussing VAW less taboo, many cases of VAW still go unreported. Programmes are underway to support countries in tackling social norms on gender equality more broadly, and on VAW in particular, as well as in engaging men and boys in the conversation. It would also be important to look at how violence is perpetrated and perceived in society more broadly, such as violence against children and violent behaviour between men.

The following recommendations emerge from the case studies:

- Align national legislation with international standards on VAW. If the constitution includes a provision on VAW, this can be used as extra leverage. Issue a comprehensive law on VAW and/or align the various national legal frameworks that cover VAW. Monitor and report on an annual basis on the implementation of the reforms.
- Continue building the evidence base on VAW. Indicators used for VAW surveys should be harmonised so that data can be compared across countries and over time. Surveys should not only measure the incidence of violence, but also look at the perceptions and attitudes of both women and men towards VAW. Carry out further research to better understand the linkages between VAW and women's economic empowerment and exchange experiences and good practices on legal reform on VAW across the region.
- Engage both traditional and social media in disseminating findings on VAW and the recent legal reforms on VAW. These awareness-raising efforts should target both women and men.
- Train state officers in the recent reforms so that they can apply them in their work (including police officers, judges, clerks, and also social workers, doctors, teachers, and other education specialists) and ensure co-ordination among the various state institutions that are responsible for addressing VAW.

- Provide support to women to report violence. Also provide free legal aid and support to women victims while they go through the judicial procedures to bring the perpetrator to justice.
- Provide funding and capacity building to national CSOs. This will allow them to continue advocating for legal reform on VAW as well as to continue providing services to women victims of violence.

Annex 4.A. Implementing Tunisia's law on violence against women in the courts

A ruling on financial deprivation

In *Amani versus Ashraf Al Qarqouri* (December 2018), the Tunisian first instance court in Manouba ruled in favour of the plaintiff, granting her the payment of alimony and housing provisions. The court ruled in the absence of the defendant who failed to appear in court three times. The court examined, in the context of violence against women, the matter of financial pressure.

In this case, the plaintiff states that the defendant, her husband, changed the house keys, which has forced her to leave the family home. She also states that the defendant does not contribute towards her and her son's expenses even though he is a surgeon, has a decent income, and therefore has the means to financially provide for them. In comparison, as a visiting doctor, the plaintiff's income is meagre as she must repay a monthly bank loan and cover the cost of her son's nursery. As a result, she is unable to cope with such financial needs and asks the court that the defendant contribute to that end.

The court applies the provisions of law no. 58 of 11 August 2017 on the elimination of violence against women. In line with its Article 3, which stipulates that violence against a woman exists whether by exerting pressure or depriving her of her rights and liberties whether in public or private life. This also includes financial deprivation, which in turn would constitute a privation of her rights. The court states that the plaintiff in this case is deemed a victim and ruled that the defendant pay the plaintiff a monthly sum that would contribute to the financial needs of her and her son for a period of 6 months renewable once, in addition to a rescheduled hearing to give the defendant a chance to appear in court.

This case is interesting in that the court reasoned purely based on Tunisian national law and relied on the 2017 law on violence against women. In doing so, it reached a favourable judgement for the plaintiff, as it will ease her financial pressure in supporting her child. In turn, this could potentially facilitate her participation in the labour force considering her newly found financial stability could allow her to focus greater attention on progressing in her career.

A ruling on violence towards women and children

On 26 June 2018 the first instance court in Grombalya also applied law no. 58 of 11 August 2017 on the elimination of violence against women. In a context of domestic violence, this was registered as an urgent case and the court ruled in favour of the plaintiff. The plaintiff and defendant are married and have seven children together. One of the children is mentally disabled and is under his mother's guardianship on a permanent basis. The plaintiff alleges that the defendant assaults her regularly. For example, the defendant gravely assaulted his wife and disabled son by pouring petrol on them and tried to set them on fire. The defendant was arrested but the plaintiff dropped the charges in order to protect her family so he was released and returned to the family home. The defendant reverted to his violent ways towards his wife and son, which led to the plaintiff filing a suit against him in line with the provisions of Article 33 of law no. 58 of 11 August 2017 on the elimination of violence against women. The plaintiff demanded that the defendant leave the family home and pay a monthly sum to her.

In court, the defendant alleged that his intention was to scare and not physically assault the victims. The defendant also invoked his old age and illness as a legitimate defence against his expulsion from the family

home, his receipt of a meagre pension that would not allow him to make financial contributions and the ongoing divorce case between the plaintiff and the defendant in parallel.

The court enlarged the subjects of moral and physical damage defined by Article 3 of law no. 58 of 2017 to include not only the wife, but also the child, who lives with his mother and who is in a weak position, mentioning his disability. The court's reasoning focused a lot on the mental disability of the child as part of this definition and applied it to the events that occurred. The fact that the assaults were only halted because of the intervention of another son does not bode well for the defendant, especially given the medical evidence gathered that corroborates the facts of the assault such as the physical injuries and the smell of petrol on the plaintiff. On this basis, the court dismisses the legitimate defence raised by the defendant and states that the events amount to physical and moral damage to the victims as per the provisions of Article 3 of law no. 58 of 2017.

As a result, the court ruled that the defendant must leave the family home and is only allowed to recuperate his personal belongings with a warrant. The court prohibited the defendant from contacting both victims, the plaintiff and his son, and must pay a monthly alimony. The court pronounced the provisions for a period of six months, renewable once.

Although much of the court's reasoning focused on the child, this case is still relevant in that the court does not bow to the legitimate defence of old age and so it does not result in the case's dismissal. The final judgement provides stability to the wife and son given that the defendant was ordered to leave the family home. With the absence of the defendant, there is the expectation that the occurrence of violent episodes will decrease hence increasing the physical and mental safety of the plaintiff. This judgement also goes a step further in that it prohibits contact between the defendant and victims, therefore allowing the plaintiff and her son the space and environment to rehabilitate.

Even though both these cases are ruled in the first instance, contain judgements that are valid for only six months renewable once, and their positions are yet to be confirmed by jurisprudence tried in the higher courts of Tunisia, they are positive developments in the trend towards empowering women economically. As these cases have demonstrated, it is evident that domestic violence has spill over effects on women's economic empowerment and the courts here have been seen to rule proactively while considering that these various areas do not exist in isolation.

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Notes

¹ These countries are: Afghanistan, Algeria, Bahrain, Bangladesh, Belarus, Brunei, Burundi, Cameroon, Central African Republic, Chad, Chile, Comoros, Congo, Cyprus*, Democratic Republic of the Congo, Djibouti, Dominica, Egypt, Equatorial Guinea, Gabon, Gambia, Grenada, Guinea-Bissau, Guinea, Indonesia, Iran, Iraq, Jordan, Kuwait, Lebanon, Liberia, Libya, Madagascar, Malaysia, Maldives, Mali, Mauritania, Morocco, Niger, Oman, Pakistan, Palestinian Authority, Philippines, Qatar, Saudi Arabia, Senegal, Seychelles, Somalia, South Sudan, Sudan, Syria, Tanzania, Togo, Tunisia, United Arab Emirates, Yemen and Zimbabwe.

This list is based on the Gender, Institution and Development database used to inform the 2019 Social Institutions and Gender Index (SIGI) results (available at <https://stats.oecd.org/Index.aspx?DataSetCode=GIDDB2019>). The economies listed above are those that scored 0.75 or 1 on the sub-index for household responsibilities, where 0.75 describes economies where “women do not enjoy the same legal rights as men to be recognised as the head of household or to have parental authority” and 1 describes countries where “women do not enjoy the same legal rights as men to be recognised as the head of household and to have parental authority.”

* The information in this document with reference to “Cyprus” relates to the southern part of the Island. There is no single authority representing both Turkish and Greek Cypriot people on the Island. Turkey recognises the Turkish Republic of Northern Cyprus (TRNC). Until a lasting and equitable solution is found within the context of the United Nations, Turkey shall preserve its position concerning the “Cyprus issue”.

The Republic of Cyprus is recognised by all members of the United Nations with the exception of Turkey. The information in this document relates to the area under the effective control of the Government of the Republic of Cyprus.

² These economies are: Antigua and Barbuda; Argentina; Austria; Australia; Azerbaijan; Bahamas; Barbados; Belarus; Belgium; Belize; Bhutan; Brazil; Bulgaria; Cabo Verde; Canada; Chile; China; Colombia; Croatia; Cuba; Cyprus*; Czech Republic; Denmark; Dominican Republic; Estonia; Finland; Germany; Guyana; Honduras; Hong Kong, China; Iceland; Ireland; Italy; Jamaica; Japan; Kazakhstan; Korea; Latvia; Lithuania; Luxembourg; Malta; Moldova; Mongolia; Netherlands; New Zealand; Nicaragua; Norway; Panama; Poland; Portugal; Romania; Russia; Sao Tome and Principe; Seychelles; Slovak Republic; Slovenia; Sweden; Switzerland; Thailand; Trinidad and Tobago; Ukraine; United States; Uruguay; and Venezuela.

This list is based on the Gender, Institution and Development database used to inform the 2019 Social Institutions and Gender Index (SIGI) results (available at <https://stats.oecd.org/Index.aspx?DataSetCode=GIDDB2019>). The economies listed above are those that scored 0 on the sub-index for discrimination in inheritance, where 0 describes economies where “widows and daughters enjoy the same rights as widowers and sons to inherit land and non-land assets. This applies to all groups of women. Customary, religious and traditional laws or practices do not discriminate against women's inheritance rights.”

³ Algeria, Bahamas, Bahrain, Bangladesh, Barbados, Benin, Brunei, Burundi, Cameroon, Central African Republic, Comoros, Congo, Egypt, Eswatini, Guatemala, Guinea, Haiti, Iran, Iraq, Jordan, Kuwait, Lebanon, Lesotho, Liberia, Libya, Madagascar, Malawi, Malaysia, Mauritania, Morocco, Mozambique, Nepal, Nigeria, Oman, Pakistan, Palestinian Authority, Philippines, Qatar, Saudi Arabia, Sierra Leone, Singapore, Somalia, Sudan, Syria, Tanzania, Thailand, Togo, Tunisia, United Arab Emirates and Yemen. This list is based on the Gender, Institution and Development database used to inform the 2019 Social Institutions and Gender Index (SIGI) results (available at <https://stats.oecd.org/Index.aspx?DataSetCode=GIDDB2019>). The economies listed above are those that scored either 0.75 or 1 on the sub-index for citizenship rights, where 0.75 describes economies where “women and men have the same rights to acquire, change and retain their nationality. However, women face legal restrictions on their rights to confer their nationality to their husband and/or children” and 1 describes economies where “women and men do not have the same rights to acquire, change or retain their nationality”.

⁴ Table 1 at the start of this report contains an “at-a-glance” summary of all the themes of the case studies and in-depth boxes.

⁵ The protocol is available at https://www.un.org/en/africa/osaa/pdf/au/protocol_rights_women_africa_2003.pdf.

⁶ Composed of nine members, COLIBE is presided over by Bochra Bel Haj Hmida, lawyer and former member of parliament. Its members have a range of backgrounds and expertise in the areas of law, religion, anthropology, literature and communication.

⁷ The report (in Arabic) is available at: https://docs.euromedwomen.foundation/files/ermwf-documents/8054_4.168.تقريرلجنةالحرياتالفرديةوالمساواة.pdf

⁸ Previously the law was silent on this but in practice the widow was often forced out of the marital home by her children or by the family of her deceased husband.

⁹ Currently, Article 13 of the Tunisian Nationality Code stipulates that a female foreign spouse can automatically acquire Tunisian nationality upon the celebration of her marriage with a Tunisian in the event that she loses her citizenship of her country of origin as a result of her marriage to a foreigner. Furthermore, according to Article 21(2) of the Tunisian Nationality Code, a foreign male spouse of a Tunisian woman can obtain Tunisian citizenship if the marital household is located in Tunisia during the citizenship application process.

¹⁰ Concretely, this would mean that a Tunisian mother would also be allowed to grant nationality to her children born in Tunisia and to the foreign spouse after having lived together for two years in Tunisia.

¹¹ The tax allowances granted to the head of household include:

- TND 300 by virtue of his capacity as head of household;
- TND 100 for each dependent child, applicable to the first four children. This amount is extended to TND 1,000 per child below 25 years old engaged in tertiary studies without a scholarship; and to TND 2,000 per disabled child.

¹² The head of household is defined in article 5 of the Tunisian Income Tax and Corporate Tax Code. A wife can only be deemed head of household under two conditions: if she proves that her husband has not earned any income for the fiscal year in question, or if she remarries and retains custody of her children from a previous marriage.

¹³ In May 2016, a draft law to improve women's inheritance rights was presented but was not upheld.

¹⁴ The Tunisian Ministry of Social Affairs is currently preparing a study on pay inequality in the Tunisian private sector.

¹⁵ For example, this report is in favour: <https://www.fidh.org/fr/regions/maghreb-moyen-orient/tunisie/premier-pas-la-tunisie-sur-la-voie-de-l-egalite-dans-l-heritage>; while this is against: <https://www.hrw.org/fr/news/2018/09/06/tunisie-le-parti-ennahda-rejette-legalite-dans-l-heritage>.

¹⁶ Law No. 77/1943 the inheritance law, August 6, 1943, Journal of Egypt No. 92, August 12, 1943, 18 et seqq.

¹⁷ Law No. 71/1946 promulgating a law on the will, July 1, 1946, Journal of Egypt No. 65, July 1, 1946, 1 et seqq.

¹⁸ According to Article 3 of the Egyptian Constitution, non-Muslim communities are granted some autonomy over their personal status; nevertheless, their legislative autonomy is currently limited to family law. Muslim, Christian and Jewish communities used to have their own personal status law and their own courts (the *Shari'a* Courts for Muslims and the *Milli* Courts for non-Muslims), and a high degree of autonomy on matters such as legal capacity, guardianship and inheritance. In 1956, late President Gamal 'Abd al-Nasser decided to abolish separate courts and to substantially reduce the autonomy of non-Muslim communities, limiting the applicability of non-Muslim personal status laws to marriage and divorce (Berger, 2001^[66]).

¹⁹ See: Interview with Azza Suleiman, Director of the Center for Egyptian Women's Legal Assistance (CEWLA), http://www.equalitynow.org/partner/azza_suleiman.

²⁰ The amendment was published in the Official Gazette on 30 December 2017, after the Egyptian Parliament had passed it on 5 December 2017.

²¹ Copts in Egypt constitute the largest Christian population in the Middle East and North Africa, as well as the largest religious minority in the region, accounting for roughly 5-20% of the Egyptian population.

²² In other cases, family members file an interdiction case against their parents claiming that they mentally ill or incapable of using their funds.

²³ Interview with Nehad Abolkomsan.

²⁴ CEDAW Article 16.1 b) states that “Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women: The same right freely to choose a spouse and to enter into marriage only with their free and full consent.” For more information on this particular topic, see (OECD, 2017^[1]).

²⁵ Law No. 6 of 1954 on Nationality as amended in 1987.

²⁶ See the Concluding observations of the Committee on the Elimination of Discrimination against Women on Egypt (45th session, 18 January-5 February 2010), Morocco (66th session, 13 February-3 March 2017), Jordan (40th session, 14 January-1 February 2008) and Tunisia (47th session, 4-22 October 2010). Morocco and Egypt have included reservations to Article 2 of CEDAW regarding the application of the convention. Both countries declare that they will only apply CEDAW if it is not contrary to the provisions set out in Islamic Sharia.

These reservations were considered in conflict with the object and purpose of the convention by the CEDAW Committee. These objections, however, are more political than legal in their impact and thus do not prevent the convention’s entry into force (OECD, 2017^[1]).

²⁷ The convention is available in English at: <https://www.coe.int/fr/web/conventions/full-list/-/conventions/rms/090000168008482e>.

²⁸ The recommendation is available in English at : <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-5020>.

²⁹ The strategy (in French) is available at: <https://tunisia.unfpa.org/sites/default/files/pub-pdf/STRATEGIE%20VIOLENCE%20fr.pdf>.

³⁰ For the text of the constitution in English, see https://www.constituteproject.org/constitution/Tunisia_2014.pdf.

³¹ A complete description of SDG 5, as well as yearly monitoring of its progress, is available at: <https://sustainabledevelopment.un.org/sdg5>.

³² The Committee included the Council of Europe, European Union, OHCHR, UNFPA, UNODC and UN Women.

³³ Loi organique n° 2017-58 du 11 août 2017, relative à l’élimination de la violence à l’égard des femmes.

³⁴ Décret gouvernemental no. 126 de 2020, 26 February 2020.

³⁵ This project was implemented by the National Office of Family and Population, the Ministry of women’s affairs, family and children and UN Women.

³⁶ Family Protection Law No. 15 of Jordan, 16 May 2017, Official Gazette No. 5460, page 3345.

³⁷ See <http://www.jordantimes.com/news/local/social-development-ministry-launches-strategy-combat-gender-based-violence>.

³⁸ The provision adds that the penalty is higher, namely, mandatory life imprisonment, if any aggravating factors are present. Some of these factors relate to adolescent girls. For example, it is an aggravating factor if the offender is responsible for the victim's upbringing or supervision or has other authority over her. This applies to caretakers, teachers and parents, among others.

³⁹ Rape by fingers, tools, or sharp objects, oral or anal rape are therefore not included.

⁴⁰ The Criminal Chamber of the Egyptian Court of Cassation has also defined the crime of rape, declaring in Ruling No. 4113 of January 6, 1988, that complete sexual intercourse (full penetration) against the will of the victim is a key factor in determining whether or not the offence is rape or sexual assault. Petition No. 4113 of 1988, Hearing of 6 January 1988, Court of Cassation, Criminal Chamber, Technical Office, vol. 39, p. 79.

⁴¹ Decree Law No. 50/2014 was approved on 4 June 2014 by interim president Adly Mansour. See https://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=57560. The law was implemented as a decree due to the lack of an operating parliament between June 2012 and October 2015.

⁴² Sexual harassment is punishable by imprisonment for not less than six months or a fine of 3,000 Egyptian pounds. If the act of sexual harassment is repeated by the same individual via following or stalking the harassed, the punishment is imprisonment for one year and a fine of 5,000 – 10,000 Egyptian pounds (article 306 bisA para.2). If sexual harassment is done with the intent of receiving sexual gratification from the victim, the punishment is imprisonment for a period not less than one year and a financial penalty of not less than 10,000 Egyptian L.E (article 306 bisB para.1). If the offender is in a position of authority, such as occupational authority, or uses any form of duress to receive sexual gratification, the penalty will be not less than two years in prison and a financial penalty of not less than 20,000 Egyptian L.E.

⁴³ Point 18 regarding Article 11, General Recommendations No. 19, Committee on the Elimination of the Discrimination against Women defines in its 11th session, 1992: <http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm>.

⁴⁴ The right to disciplining one's wife according to Islamic law is connected to her duty of obedience. This is a topic which has caused critical discussions among religious scholars for centuries. See for further detail (Mir-Hosseini, Al-Sharmani and Rimmingner, 2015^[63]).

⁴⁵ Article 6 Law No. 25/1929 as amended Law No. 100/1985.

⁴⁶ A Human Rights Watch Report gives the following quote from a judge: "What is harm for one woman isn't harm for another. Some accept beatings and insults as jokes, while others do not." – Judge Abdel Rahman Muhammad, Chief Judicial Inspector, Cairo, 25 June 2004, cited in (Human Rights Watch, 2004^[64]).

⁴⁷ Article 31bis of Law No. 143/1994 as amended through Law No. 126/2008.

⁴⁸ The Sharia law, the Quran and the Sunnah, as well as the Bible, do not mention FGM. However, religion has been used for centuries to justify it amongst many communities. In addition, FGM has been a taboo for a long time. No one dared to question its legitimacy or even speak about the practice in public.

⁴⁹ See <https://www.reuters.com/article/idUSL24694871> and <https://www.refworld.org/pdfid/4b6fe1cd0.pdf>.

⁵⁰ Available at <https://www.undp.org/content/dam/egypt/docs/Publications/Docs%20Gender/EGY%20FGM%20strategy%20EN.pdf>.

⁵¹ See <https://tinyurl.com/ybme2gg2>.

⁵² Egypt Today, NCW to submit draft law against domestic violence to Parliament, 6 September 2017, <https://www.egypttoday.com/Article/1/21367/NCW-to-submit-draft-law-against-domestic-violence-to-parliament>; The Caravan, Parliament drafts new bill to combat domestic violence, 14 December 2017, available at: <http://www.auccaravan.com/?p=6730>.

⁵³ Egypt Today, Introducing Egypt's strategy to combat violence against women, 3 December 2017, available at: <https://www.egypttoday.com/Article/2/35200/Introducing-Egypt%E2%80%99s-strategy-to-combat-violence-against-women>.

⁵⁴ Violence against women is defined as “any act of violence based on gender that leads or may lead to physical, or sexual, or psychological harm or suffering for women or girls, including threat to commit such acts, suppression or arbitrary deprivation from freedom, whether in public or private life.” The strategy further adds different types of VAW in its Annex 2.

⁵⁵ More broadly, the space left to civil society organisations in Egypt is a matter of internal and external concern. To counter terrorism and improve security and stability, Egypt has adopted a number of regulations and laws that have considerably curtailed the freedom of speech and association. For instance, the state of emergency that President Sisi declared in April 2017, following two terrorist attacks in Alexandria and Tanta, has been renewed ten times and is still in place at the time of writing of this publication, although the constitution states that it cannot be extended more than once (Youness, 2019^[65]).

⁵⁶ The implementation framework in French is available at: <http://www.social.gov.ma/sites/default/files/strat%C3%A9gie%20nationale%20de%20lutte%20contre%20la%20violence%20%C3%A0%20l'27%C3%A9gard%20des%20femmes.pdf>.

⁵⁷ An overview of the Plan in French is available at: <http://www.social.gov.ma/fr/domaine-de-la-femme/plan-gouvernemental-pour-l%E2%80%99egalit%C3%A9>.

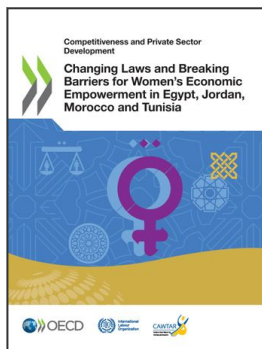
⁵⁸ Dahir No. 1-18-19 of 5 Jumada II 1439 (22 February 2018) promulgating Act No. 103-13 on combating violence against women.

⁵⁹ See the Concluding comments on Morocco of the Committee on the Elimination of Discrimination against Women's 40th session (14 January-1 February 2008), available at: <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsgOTxO5cLI Z0CwAvhyns%2byLKO5bax2iJ3d7DBNB1oiOG3HY46W8dY6v4LREKnR8jPD9CgguUiHQGE2WCNJ wXCBcjCggSbegpt7p0CbZyH6>.

⁶⁰ Chapter 1: Definitions; Chapter II: Criminal provisions; Chapter III: Procedural provisions; Chapter IV: Mechanisms for caring for women victims of violence; Chapter V: Measures and initiatives for the prevention of violence; Chapter VI: Entry into force.

⁶¹ The UNDP report is available at: <https://www.undp.org/content/dam/rbas/doc/Gender%20Justice/English/Morocco%20Country%20Summary%20-%20English.pdf>.

⁶² In a letter addressed to Minister for Solidarity, Women, Family and Social Development and the Minister of Justice of Morocco on February 16th, 2016. The full letter is available at: https://www.hrw.org/sites/default/files/supporting_resources/letter_from_hrw_to_the_government_of_morocco_on_domestic_violence_law_reforms.pdf.



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