

A White Dress Does(n't) Cover the Rape. *Factors effecting the abolishment of Article 522*



"Different Causes, Shared Anger" March - Photo by Joelle Hatem

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1 Introduction

In Lebanon, a rapist could avoid criminal prosecution by marrying their victim. That was until August 16th 2017 when the Lebanese Parliament voted on the abolishment of Article 522. Thereby, Lebanon joins a number of other Arab states. Given that marital rape and underage marriage remain legal, it is a benign step towards the protection of women's rights only, but a primer.

The activism focusing on discriminatory articles against women dates back to the 1990s. Yet it was a surprising development that this article was suddenly abolished in 2017 after the activism triggered a powerful movement. What are the factors that ultimately led to the abolishment of Article 522?

2 Article 522 of the Lebanese Penal Code

Article 522 of the Lebanese penal code allowed rapists to escape punishment and prosecution by marrying their victim and providing legal documents of the marriage in court. For this reason, it is also commonly known as the "rape law". In addition to Lebanon it has also existed in a number of legal systems and continues to be enforced in various countries in the Middle East and North Africa region, hereafter referred to as the MENA region. These countries include for example Bahrain, Iraq, Libya, Kuwait, Syria, Palestine, and Algeria (HRW 2017). It is also commonly used in other parts of the globe, as several Latin American countries, Tajikistan,

and the Philippines still keep this law in their respective penal codes (ebd).

Additionally, until recent developments several MENA countries like Morocco, Tunisia, Jordan, and Lebanon also still enforced the law. They abolished it sequentially according to the order in which they are listed above, starting with Morocco in 2014 and ending with Lebanon in 2017. In contrast to the other countries, however, Lebanon did not abolish the article entirely; hence keeping the legislation from taking proper effect as underage marriage (between 15 and 18) and marital rape in general remain legal.

"Article 522 includes all articles from 503 to 522. [...] Whilst other organizations see this step as a huge success by arguing the article 522 was fully abolished, we don't, because the article still remains in these two situations (505 and 518)" (Fatima Hajj, lawyer at KAFA, personal interview 26th January 2018, Beirut).

Article 522 as quoted above states that a person who committed "any of the crimes mentioned in this chapter" could escape punishment in the event of a legal marriage with the victim. The chapter that is referred to in this case covers Articles 503 up to 522. As a consequence, Article 522 remains in part effective, due to the fact that the Articles 505ⁱ (intercourse with minors), and 518ⁱⁱ (seduction of minors with the promise of marriage) are still a part of the Lebanese penal code. While Article 503 of the Lebanese Penal Code defines the crime of rape as "forced sexual intercourse [against someone] who is not his wife by violence or threat", the 2014 introduced a law on domestic violence that claims "marital

right to intercourse” is a crime, but does not criminalize the violation of physical integrity itself (HRW 2017). Therefore, the marital rape is still not punishable.

The reason for the establishment of an article of this kind lies in the societies’ patriarchal attitudes in combination with cultural notions of honor and shame, in which a family’s honor is directly linked to a woman’s chastity. By marrying the perpetrator, the victim is protected against a “scandal” that might take place when a woman has intercourse outside of marriage (theindy 2017). To avoid what is perceived as a scandal in those cultures, women get pressurized by their families to agree to these marriages. Otherwise, they would lose their communities or might in severe cases even get “killed by honor” (ebd). Furthermore, in many cultures which enforced or are still enforcing this kind of law, survivors of rape are seen as “unmarriageable” (HRW 2017). Giving the perpetrator the possibility of marrying his victim and thereby the opportunity of escaping a punishment was and in some cultures still is an accepted solution to this problem.

The establishment of this article goes back several centuries, in which the British, the French and the Ottoman Empire were the major powers in the very countries, which today form the MENA region. In the course of independence, there was a need for the new countries to constitute civil, commercial and

penal codes. As a result, this law was introduced during the Ottoman Empire inspired by the French Penal Code of 1810, also known as the “Napoleonic Code of 1810”ⁱⁱⁱ, which allowed a man who kidnapped a girl to evade prosecution by marrying her. As a conclusion, it can be said that Article 522 of the Lebanese Penal Code was indeed adopted by the Ottoman Empire from a similar law in the French Penal Code of 1810, and was also enforced by the British during their colonial rule in this region (HRW 2017).

إذا عقد زواج صحيح بين مرتكب إحدى الجرائم الواردة في هذا الفصل وبين المعتدى عليها أوقفت الملاحقة وإذا كان صدر الحكم بالقضية علق تنفيذ العقاب الذي فرض عليه. يعاد إلى الملاحقة أو تنفيذ العقوبة قبل انقضاء ثلاث سنوات على الجحقة وانقضاء خمس سنوات على الجناية إذا انتهى الزواج إما بطلاق المرأة دون سبب مشروع أو بالطلاق المحكوم به لمصلحة المعتدى عليها.¹

“In the event a legal marriage is concluded between the person who committed any of the crimes mentioned in this chapter and the victim, prosecution shall be stopped and in case a decision is rendered, the execution of such decision shall be suspended against the person who was subject to it. Prosecution or the execution of the penalty shall be resumed before the lapse of three years in cases of misdemeanors and five years in cases of felonies, in the event such marriage ends by the divorce of the victim without a legitimate reason or by a divorce which is decided by court in favor of the victim.” (Article 522 of the Lebanese Penal Code in its original version (UNODC))

3 The process of abolishing Article 522

Working and addressing women’s rights in Lebanon, especially Article 522, started during the 1990s with the Lebanese lawyer and prominent women’s rights advocate Laure Moghaizel, as the leading character, and has been followed by the Lebanese Committee to Resist Violence Against Women^{iv} (LECORVAW). Since Lebanon acceded to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in 1997, a number of women’s rights organizations

have been created that pursue the repeal of several articles discriminating against women (Salameh 2014).

3.1 The driving force in starting the process

Since 2014, KAFA (enough Violence & Exploitation), a women's rights organization in Lebanon, has worked on repealing Article 522 and is still working against the remaining Articles 505 and 518. This non-governmental civil organization is planning to create a society that is free of economic, social, and legal patriarchal structures that discriminate against women (KAFA 2010). They first started working on this issue by networking with the National Commission for Lebanese Women (NCLW) and meeting with Members of the Lebanese Parliament, especially with MP Elie Keyrouz. This process further continued in meetings with the Lebanese Ministry for Women's Affairs, Jean Oghassabian.

In 2015, another NGO, called ABAAD ("Dimensions" in Arabic), which was founded in June 2011, continued working on the process that started in the 1990s with other women's rights organizations addressing Article 522. The work of the organization focuses on the promotion of sustainable social and economic developments in the MENA region through the protection, equality, and empowerment of marginalized groups and women in particular (ABAAD 2018). In March 2015, ABAAD started the advocacy process in terms of addressing parliamentarians and networking with other

women's rights organizations. These two organizations, ABAAD and KAFA, played a vital role in the process of repealing Article 522, pressuring parliamentarians in ongoing meetings and mobilizing every available resource in their power such as media campaigns and the demonstrations to reach their goals.

3.2 One good turn deserves another

In July 2016, the politician and member of the Lebanese Forces Party Elie Keyrouz proposed an amendment of the law for the abolishment of Article 522. When the proposed amendment came to the attention of ABAAD, they started strongly supporting Keyrouz's actions in the pursuit of this matter. In various meetings with him as well as with other Members of Parliament they tried to determine the parliament's general opinion on this topic and to check whether the organization might be able to lead a campaign addressing such an article. This step was accompanied by another series of meetings with the spiritual leaders of the religious institutions "Dar al-Fatwa^v" and the "Supreme Islamic Council^{vi}", who also declared their support of the campaign.

"It was kind of a stakeholder mapping and power analysis to see if we are able to address this issue, who could act as an ally in this process and who could be the blockers in this process. So our visit to these stakeholders, the religious leaders, was one of the main steps to see, if we are able to lead this campaign." (Roula El-Masri, ABAAD, personal interview 7.2.18, Beirut)^{vii}

Since Lebanon has failed to elect a president for two years in a row, laws could not be

changed, due to the fact that the President has to sign a bill into law for it to become effective. Lacking this formal action, the process could not be completed. Therefore, during the presidential vacuum (March 2014 to October 2016) and after the law amendment proposal for the abolishment of Article 522, the organizations' work mainly focused on the design process, power analysis, networking of women's organizations, and meetings with parliamentarians.

3.3 #undress522

After the submission of the proposal to the Lebanese Committee of Administration and Justice, the amendment of Article 522 was evaluated and investigated for several months in more than ten sessions. These sessions were accompanied by regular meetings with the women's rights organizations KAFA and ABAAD, which took place alongside their own activism and campaigning.

The efforts peaked between October and December 2016, when the campaign against the Lebanese rape-marriage law, led by ABAAD under the slogan "A White Dress Doesn't Cover the Rape", reached its highest popularity. The aim of this campaign was the abolishment of Article 522 by spreading awareness of this issue on social media, in street protests, flash mobs, using the hashtag #undress522 online, and a video directed by the writer and film director Danielle Rizkallah. The video starts with the rape of a woman, shows her being dressed up for marriage, her bruises covered with white mull, and ends with her screaming in silence

under her veil. In 2018 the video had been watched over 7.5 million times and caused a public outcry that ultimately led to the Parliament's actions.

Furthermore, influential figures, such as Prime Minister Saad Hariri expressed their opinion about this campaign. The Prime Minister in particular emphasized his position on the matter by tweeting: "We will be waiting for the completion of this civilized step at the beginning of the next parliamentary session" (Reuters 2016). All these steps and actions took place at the same time as the discussions inside of the Lebanese Committee of Administration and Justice.

3.4 The dice is cast

The proposal of the law amendment for the abolishment of Article 522 was submitted to the Committee for Administration and Justice of the Lebanese Parliament in August 2016. The committee, which consisted of relevant parliamentarians and lawyers, quickly started studying and evaluating this amendment proposal. It is not unusual for the Committee to study a potential law for many years before a change is made to the constituted civil code and sometimes laws simply remain. In this case, however, it took the Committee around ten sessions, with an average of one meeting per month, from August 2016 to March 2017. Simultaneously, ABAAD appointed meetings with the Committee on a regular basis.

Since February 2017, when the Ministry for Women's Affairs was launched, they started

advocating with ABAAD and other NGO's for the repeal of Article 522. As the Minister for Women's Affairs, Jean Oghassabian, is also a member of the Lebanese Parliament, he was advocating in this forum with other members, in order to achieve the repeal of Article 522.

"We were not beginning from [the] scratch; we began where the women's organizations started. We are taking into consideration the inclusive approach. We believe, that the Ministry alone will not achieve what we are aiming for. So we are collaborating with all the stakeholders in order to push forward for women's rights." (Nada Makki, Office of the Minister of Women Affairs (OMSWA), personal interview, 6 March 2018, Beirut)

After the committee's monthly meetings were concluded, the proposal was transmitted to the General Assembly in the Lebanese Parliament, which held meetings in March and May, and postponed the next meeting until July 2017. In July it was postponed until August, at which point the proposal for the amendment of Article 522 was ultimately endorsed. On the 16th of August 2017 the Parliament voted for the abolishment of Article 522. This victory was overshadowed, however, by the fact that Articles 505 (intercourse with minors) and 518 (seduction of minors with the promise of marriage) remained. Thus, the women's rights organizations' work continues.

4 Factors implementing the abolishment of Article 522

4.1 Media

The categorized factor *Media* includes the factors *TV, radio, newspapers, social media*

and the general *awareness* of this topic. Since the media's broad coverage of Article 522 in addition to the discussions in the Parliament, all

During the conduction of the interviews, all four respondents were asked the same questions, inter alia: "Which steps led to the abolishment of Article 522?", "Could you describe the process of the abolishment of Article 522?", and "Which factors were decisive in abolishing Article 522?" Therefore, this section of questions required respondents to give information on the decisive factors influencing the abolishment of Article 522. The mentioned factors of all four interviews were already put together and categorized. A matrix is used as a data display to demonstrate the categorized factors and by which respondents they were stated, in order to indicate the most influential factors. Respondents were asked to choose between the most effective factors ("++"), the effective factors ("+") and the mixed effective factors ("+-"). Factors that were not mentioned are highlighted with a "-" meaning "ineffective".

of the respondents indicated that it played a significant if not vital role in abolishing this article. As a result, Table 1 the factor "media" was marked as a very effective factor (++) by every respondent.

"This is definitely one of the most important factors which contributed to this. So the lesson learned here is that the engagement of media is very necessary and any process for it plays a very important role in sensitizing the public audience, who would in term play such a role in lobbying the decision makers." (El-Masri, ABAAD).

The fact that the public was involved in discussions around Article 522 to such a high extend, especially on social media and blogs, made the category "Media" for all respondents by far the most influential factor in abolishing this article. Even celebrities and politicians

engaged on social media and declared their support in several interviews and as a consequence “the article ended up being a big issue in the Lebanese society, because a lot of people were aware of it” (Elie Keyrouz, Lebanese MP, personal interview 1st March 2018, Tabarja). Therefore, the different channels of media (TV, newspapers, radio) spread awareness of this issue in the Lebanese society and they in turn continued spreading awareness on social media creating a powerful movement.

4.2 Timing

A recurring topic in the interviews was a sense amongst all interviewees that the point of time in which the article was abolished played a significant role as well. The demonstrations of the civil society and the media campaign occurred around the same time as the parliamentary voting and were also accompanied by the general awareness of this controversial article. All of these favorable factors ultimately led to a beneficial outcome concerning the issue at hand.

“Most of the proposals go to the parliamentary committees to be discussed and then it will go to the voting committee. And here is the very important step: the role of the civil society in advocating for these laws in order to be amended. The campaign was moving parallel during the voting and discussion inside of the parliament.” (Makki, OMSWA).

MP Keyrouz indicated that the point of time was in fact an essential factor by suggesting, that “the demonstrations of the organizations ABAAD and KAFA took place at the same time

as when the amendment for the law reached the Lebanese Parliament for Administration and Justice”. As all four respondents focused on the point of time as a significant factor and gave it almost as much weight as the factor media, the factor is marked as a “very effective factor” by every respondent in Table 1.

Table 1

	KAFA	ABAAD	ELIE KEY-ROUZ	NADA MAKKI
Media	++	++	++	++
Point of Time	++	++	++	++
Regional Development	+	++	++	++
Civil Society	+	+	+	++
Article	-	++	+	+
Instrumentalization	-	++	-	-

Legend

++ = very effective factor
+ = effective
+ - = mixed effective
- = ineffective

The parliamentary process was also supported by a similar movement in the Middle East, with other countries like Morocco, Jordan and Tunisia addressing this issue. As the developments in the referred regions also took place around the same time as the amendment for the law was proposed to the Lebanese Parliament, the regional-development-factor was added to the category “point of time”. Regarding this, Roula El-Masri, the Gender Equality Programme Coordinator at ABAAD commented that “it was definitely the right time, because there were opportunities or context specifics that helped our efforts but also the

process of having our steps increased”.

4.3 Regional developments

As shown in Table 1, all of the respondents indicated that the regional development played also an important role. Three of four respondents classified the regional development as a very effective factor. The category *regional developments* refers to the abolishment of a similar article in regions surrounding the Lebanon, especially the

In order to answer the research question “*What are factors that led to the abolishment of Article 522?*”, qualitative research methods in form of expert interviews were used. Interviewees were Roula El-Masri, the Gender Equality Programme Coordinator at ABAAD; Fatima Hajj, a Lawyer at KAFA; Nada Makki, the Projects’ Coordinator of the Ministry of State for Women’s Affairs; and Elie Keyrouz, a politician and member of the Lebanese Parliament.

abolishments in Jordan and Morocco, which took place before the Lebanon followed the example. Morocco, Jordan and Lebanon rank lowest concerning gender parity in the world (Global Gender Report 2017: 8). The fact that Morocco and Jordan abolished the discriminatory article before Lebanon followed might give off the impression that these countries are more progressive than Lebanon in this context. This might have put additional pressure on the Lebanese Parliamentary members as El-Masri mentioned:

“[...] also the pressure from other countries in the region. That Jordan has abolished its article weeks before Lebanon and Morocco a few or a couple of months - even one month before Lebanon. So it is a kind of pressure for the government that Lebanon is the most progressive country according to them, to

their mindset and in the region. So how could other countries abolish this article and not Lebanon?” (El-Masri, ABAAD).

4.4 Civil Society

According to the definition of the United Nations, civil society comprises organizations and non-governmental organizations that represent the interests and the will of citizens (UN 2018). Therefore, the category *Civil Society* covers the factors of the Lebanese *organizations*, their *campaigns*, especially the above mentioned ABAAD-campaign, and the *citizens* of Lebanon who were involved in the process of the abolishment by demonstrating and spreading awareness.

A common view amongst interviewees was that the civil society with its organizations, the dissemination of awareness on social media and the demonstrations played a vital role in abolishing the article by putting the Lebanese parliamentarians under pressure. The factor *organizations* and their *campaigns* is mentioned by Nada Makki as a very effective factor next to the factor *media*, as they were working for years on this issue by spreading awareness and interacting with Lebanese Parliamentarians. After asking her about the women's rights organizations’ role in the process of the abolishment of Article 522 she answered:

“They played the most essential role in this campaign. Starting first from the effort they put in order to develop this media campaign, changing the culture of the society regarding this article. Second, how they mainstreamed with the media in order to push forward. So, I think they had the most important role in repealing this article.” (Makki, OMSWA).

4.5 Article 522 itself

Three out of four interviewees mentioned, that the article itself is another factor which led to its abolishment, as in comparison to other discriminatory articles it is a highly disturbing and controversial one. Elie Keyrouz specifically argued that “everybody thinks that rape is a crime and is a very awful thing and nobody could have another opinion about it” (Keyrouz, MP). Therefore, the fact that the article itself is extremely harmful might have contributed the lack of any political or confessional affiliation, as El-Masri mentioned. She indicated that the lack of political engagement and action concerning this issue became an influencing factor as well: “[...] the second factor could be the lack of any political or confessional affiliation to such a demand or such an issue or a cause, which makes it easier for other women’s rights organizations or others to address it and then to have such a successful pathway.” (El-Masri, ABAAD). Therefore, the factors *lack of political affiliation* and the *violating article* were merged in the category *article*.

4.6 Instrumentalization

This category addresses the instrumentalization of women's rights by politicians for different ends. El-Masri mentioned it as the third important factor in abolishing Article 522, as some political parties actively use women’s rights issues as a tool for themselves to portray their progressive attitude in the political process:

“So they are using women’s rights to seem progressive, so that they have more supporters. So that is why it’s not by accident that you would see some of the political parties who were in favor of this and those who tweeted or retweeted the abolishment were specifically affiliated to certain political groups.” (El-Masri, ABAAD).

By representing women’s rights, they are using this issue as an instrument to make sure that they do not identify with the radical political groups in Lebanon. As a result, they are gaining more supporters in the Lebanese society because the women rights issues are becoming public opinion issues (ebd).

4.7 Interpretation

Considering all factors mentioned above, it becomes clear that all of them are strongly linked and influenced to by one another. Due to the fact that all factors took place at the same time, the chain reaction happened in a simultaneous process, in which all factors interacted and encouraged each other at the same time. Consequently, every respondent stated that all factors in combination have put pressure on the Lebanese Parliamentary Committee of Administration & Justice, which might also have played a vital role in abolishing Article 522. This pressure arose also from the fact that regional countries as Jordan and Morocco abolished a similar article shortly before Lebanon and have let Lebanon appear as if it was a less developed country in comparison.

Furthermore, additional pressure might have emerged due to the international press coverage by international media outlets such as BBC

and CNN, who started covering this issue and spread awareness exceeding the borders of Lebanon. As Hajj, the lawyer at KAFA stated, the international pressure emerged mainly due to the CEDAW-Agreement, which Lebanon agreed to in 1997 (Hajj, KAFA) Under this agreement, Lebanon has to submit a shadow-Report every four years, in which the agreed developments are illustrated.

By looking at the table above, it becomes clear that both interviewed organizations, ABAAD and KAFA, did not state their own role as a civil society as a very effective factor. This may be due to the fact, that all respondents indicated the factors in combination as very effective. Therefore, the role of civil society is an important factor only if it is not accompanied by other very effective factors, such as the regional development or the media coverage.

5 Findings

A major reason for conducting the qualitative expert interviews was to find out which factors led to the abolishment of Article 522. From the qualitative analysis method and using the Miles & Huberman framework, six main factors influencing and supporting the abolishment were identified: The *Media* (TV, newspapers, social media) by spreading awareness of this issue; the *Point of Time*, in which the civil society activism and the media campaign happened parallel to the parliamentary process; the third significant factor was *Regional Developments*, which refers to the abolishment of a similar arti-

cle in regions surrounding Lebanon which happened beforehand and therefore might have given off the impression that these countries are more progressive; the factor *Civil Society*, covering the organizations' campaigns by arranging demonstrations, contacting parliamentarians and spreading awareness of the issue; the factor of the *Article* itself, as it was a very disturbing one in comparison to other discriminatory articles and consequently caused the lack of any political or confessional affiliation to it; and finally the *instrumentalization* of women's rights by politicians, as several political parties actively used women's rights issues as a tool for themselves to portray their progressive attitude in the political process.

6 Perspective

Although the analysis showed that the three factors *Media*, *Point of Time* and *Civil Society* played the most important role in abolishing Article 522, all demonstrated factors are strongly linked to each other and influenced each other and thus triggered a chain reaction. As all factors took place at the same time, this chain reaction created a movement which gained enough power to pressurize the Lebanese Committee of Administration & Justice.

However, applying the same factors to another case or different regions does not necessarily imply that these factors would also lead to a change in any law or policy, due to the fact of the difficulty in requiring or even achieving the same discourse. Still, as working on the abol-

ishment of Article 522 can be dated back to the 1990s, in which the mentioned factors and circumstances did not exist, the demonstrated factors in abolishing this article worked out in this research might be supportive.

Therefore, since it is clear that the Article 522 is not completely abolished, as the marriage of minors remains legal and marital rape in general is not punishable, the question of whether the same factors, especially the *Media's* influence, the *Point of Time* and the *Civil Society*, would also lead to its whole abolishment would require further research.

ⁱ In Article 505 the sexual assault is practiced with a minor, therefore a child between 15 and 18, while prior to that the child has given her/his consent.

ⁱⁱ Article 518, when the sexual act is practiced with a girl between 15 and 18 and prior to the sexual act there has been a promise of marriage.

ⁱⁱⁱ In case the seducer shall have married the girl whom he has stolen, he can only be prosecuted, upon the complaint of those persons who, by the Code Napoleon, have the right of requiring such marriage to be declared void; and he can only be condemned when the marriage has been declared void." (Code Pénal de 1810, Article 357).

^{iv} A non-governmental organization, established in 1997 and working for the purpose of fighting and resisting all forms of violence against women and gender based violence in Lebanon.

^v Sunni authority, created in 1922, issuing inter alia legal rulings specific to the Sunni community, overseeing mosques, administering religious schools.

^{vi} Supreme Islamic Shia Council, established in 1967, issuing inter alia development funds, construction and improvement of schools and hospitals.

^{vii} After the first mentioning, this will be shorted to ([last name]) and ([organization/Position]).

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ANNEX-LIST OF INTERVIEWEES

ELIE KEYROUZ, Lebanese Member of Parliament, interviewed on 01.03.18, Tabarja.

FATIMA HAJJ, Lawyer at KAFA, interviewed on 26.01.18, Beirut.

NADA MAKKI, Projects' Coordinator at the Office of the Minister of State for Women's Affairs (OMSWA), interviewed on 06.03.18, Beirut.

ROULA EL-MASRI, Gender Equality Programme Coordinator at ABAAD MENA, interviewed on 07.02.18, in Beirut.