



RESEARCH ARTICLE

The Extent to which Qatari Law takes into Account the Provisions of the Declaration on Eliminating Violence against Women

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ARTICLE INFO	ABSTRACT
Received: Apr 24, 2024 Accepted: Aug 25, 2024	The current study aimed to reveal the extent to which Qatari law takes into account the provisions of the Declaration On eliminating violence against women. The researcher will adopt the inductive approach by reviewing the provisions of the Declaration and similar ones in Qatari law, in preparation for applying the comparative approach by identifying points of similarity and difference, which will enable him to reach an answer to the research question of whether or not Qatari law adheres to the provisions of the declaration in question. 1 . The Qatari legislator supports the prevailing opinion that considers the provisions of the declaration not legally binding, and does not deny the existence of a moral or political obligation to them. 2 . The declaration in question does not have the elements of the customary rule due to the lack of generality of the text from an objective standpoint, because its texts were defined within a specific objective framework, which is violence against women. Also, the General Assembly resolution through which the declaration in question was adopted does not represent formal generality because it was adopted without voting. 3 . The concept of violence against women according to the Declaration faces shortcomings as it is based on discrimination based on gender. 4 .Qatari law does not define violence against women, and the texts of Qatari law are not completely consistent with the concept of violence against women according to the Declaration. However, a wide range of forms of violence against women can be criminalized, as stated in the Declaration, according to the current texts of the Qatari Penal Code. 5 . According to the declaration, violence against women includes violence in private and public life, and the provisions of Qatari law are not sufficient to cover all types of violence according to the aforementioned division.
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INTRODUCTION

The phenomenon of violence against women is a social problem that negatively affects the cohesion of the foundation of society, which is the "family." The causes of this phenomenon vary due to the differences in social fabrics and cultural and religious backgrounds in countries. Violence against women is considered a clear violation of women's rights, and therefore it is a violation of human rights, and it is worth noting. The international community, through the United Nations Charter, affirmed its commitment to respecting human rights regardless of gender, and with the development of the concept of human rights, women's rights became an international phenomenon. The international community demonstrated its interest in them by adopting a number of international instruments related to women, such as the declaration "on the elimination of discrimination against

women." ", and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), Which emphasized the principle of equality between the sexes by calling for the fight against any discrimination based on sex. The committee concerned with following up on the activation of the CEDAW Convention, after about a decade had passed since the entry into force of the convention, also confirmed that violence against women falls within the scope of discrimination based on sex. Gender, and as a result of the aforementioned Committee's actions, the General Assembly approved the Declaration "On the Elimination of Violence against Women" in 1993, which became "the first international instrument whose subject matter is strictly limited to the issue of violence against women," including an attempt to define violence against women in a comprehensive and clear manner. Although this ad appeared three decades ago, International legislation is still devoid of any legal instrument binding on states concerned with combating violence against women, which calls into question the extent to which this declaration is legally binding, and the extent of the State of Qatar's commitment to its provisions?

Research problem

Opinions vary regarding the obligation of advertisements, between those who support the idea of a legal obligation and those who oppose this idea, but - at the very least - they have a political or moral obligation, as they represent the basis that reconciles different legal systems, in addition to being the basis of international agreements, in addition to their influence on legislation. Nationalism, and another side of legal jurisprudence believes that declarations through which customary international rules are codified, and therefore have the same binding force as the customary rule, which raises the question about the extent to which the declaration is mandatory for the State of Qatar, and the extent of the State of Qatar's commitment to what is stated in the declaration, and this question emerges from this question. A set of questions as follows:-

-- Does the scope of the definition of violence against women according to the Declaration comply with all forms of violence?

Is the concept of violence against women according to the declaration consistent with the provisions of Qatari law?

-Does national legislation comply with the level of protection required for women according to the Declaration?

-What are the national efforts made by the State of Qatar to enhance the protection and status of women? Do these efforts align with what the ad asks for?

Research objectives

The study aims to:-

- Determine the definition of violence against women according to the Declaration is consistent with all forms of violence.

- Explaining the concept of violence against women according to the declaration consistent with the provisions of Qatari law

- Determine whether national legislation comply with the level of protection required for women according to the Declaration

- Determine whether the national efforts made by the State of Qatar to enhance the protection and status of women? Do these efforts align with what the ad asks for.

The importance of the study

The importance of the current study is highlighted in the following:-

Revealing the status of women in a developing country, and clarifying the amount of rights they enjoy, by revealing the extent of Qatari law's compliance with international declarations and agreements.

The study contributes to revealing all forms of violence against women in the State of Qatar, the extent of their agreement and the forms of violence included in the declaration.

The study contributes to revealing the role of national legislation in the State of Qatar in protecting women's rights.

The study contributes to explaining the national efforts made by the State of Qatar to enhance the protection and status of women.

-Enriching the World Library in general and the Arab Library in particular with one of the important issues related to violence against women.

Research limitations

The scope of the research will be limited to the texts of the declaration, in addition to the relevant national legislation.

RESEARCH METHODOLOGY

The researcher will adopt the inductive approach by reviewing the provisions of the Declaration and similar ones in Qatari law, in preparation for applying the comparative approach by identifying points of similarity and difference, which will enable him to reach an answer to the research question of whether or not Qatari law adheres to the provisions of the declaration in question.

Findings:-

1- Qatari law takes into account the definition of violence against women

Violence is considered one of the important topics in the field of human rights, given that it is one of the most widespread violations in the field of human rights, and specifically violence against women, which can be said to affect, in one way or another, women's enjoyment of their basic rights and freedoms, which requires defining a clear and explicit definition, to determine what is meant. Of violence against women, and despite international and regional efforts to develop a definition of violence against women, it is still considered a controversial topic. Therefore, during this study, we will examine the definition in accordance with international law, and consider the concept of violence against women from the point of view of Qatari law.

A- Qatari law adopted the declaration in terms of the concept of violence against women

International documents have emphasized that violence against women results from the unequal relationship between men and women, considering that inequality is the fuel of gender-based violence, and therefore the United Nations Charter called for achieving equality between men and women, as it stated in its preamble: "...with respect to men and women." Nations, large and small, have equal rights..." He explicitly stated that one of his purposes was "...to promote respect for human rights and fundamental freedoms for all people and to encourage this absolutely without distinction as to sex, language or religion There is no distinction between men and women. (1)" From this standpoint,

1- The United Nations Charter, 1945, can be viewed through the following link: <https://www.un.org/ar/about-us/un-charter/full-text> accessed on February 13, 2023, Preamble, Article (1/3).

the CEDAW Convention, in its first article, called for equality with men by considering "any distinction, exclusion, or restriction made on the basis of sex. "Or weakening or thwarting her

enjoyment of these rights or exercising them regardless of her marital status and on the basis of equality between her and men,” while the CEDAW Convention Committee defined it, based on Article No. (1) of the Convention, as “violence directed against a woman because of her being a woman, or violence that It unjustly affects women, and includes acts that cause physical, mental, or sexual harm or pain to them, threats of such acts, coercion, and other forms of deprivation of freedom. Gender-based violence is violence that undermines women’s enjoyment of human rights and fundamental freedoms. Under public international law or under human rights conventions, which negates her enjoyment of those rights and freedoms,” According to this definition, the criterion for judging a statement or action as violence against women is depriving women of the enjoyment of basic rights and freedoms stipulated in international conventions. This was followed by the Declaration’s definition of violence against women, which clarified the elements that must be present to consider the forested situation violence against women, and it followed A number of national legislations approach the Declaration in defining violence against women, in contrast to the Qatari legislator, which did not provide a specific definition of violence against women. Therefore, in this requirement, we will compare the definition of the Declaration with what is stated in regional agreements. We will also clarify the position of the Qatari legislator on this definition and on the types of violence. Against women according to the declaration according to the declaration. ”....

First: Definition of violence against women according to the declaration and regional conventions:-

The advertisement in question stated its definition of this violence as: “Any violent act motivated by gender bias that results, or is likely to result, in harm or suffering to women, whether physical, sexual, or psychological, including threats of such acts or coercion.” Or arbitrary deprivation of liberty, whether this occurs in public or private life.” Thus, violence against women is considered discrimination based on basis of sex.

Article (1), CEDAW Agreement, op. cit.

Paragraph (6), CEDAW Committee, General Recommendation No. (19), previous reference. The recommendation also addressed the definition of violence against women elsewhere as: “gender-based violence that undermines women’s enjoyment of human rights and fundamental freedoms under General international law or under specific human rights agreements, or nullifying her enjoyment of those rights and freedoms, is considered discrimination within the meaning of Article 1 of the Convention, and these rights and freedoms include...,” paragraph (7), *ibid*.

Maha Al-Mana, *Violence and Women in International Treaties: A Reading of Concepts and Effects*, first edition, Saudi Scientific Society for Contemporary Intellectual Studies, Saudi Arabia 1435 AH, pp. 20-21.

Article (1), previous reference, while the Inter-American Convention defined violence against women in Article (1) as “For the purposes of this Convention, violence against women is understood as any act or behavior, on the basis of sex, that causes death or physical or sexual harm.” or psychological or suffering of women, whether in the public or private sphere,” the Inter-American Convention, previous reference, and the African Protocol defined it in Article (1/j) as “all acts committed

The regional definitions adopted the same approach, with the exception of the Arab Declaration, which did not take the same approach. The definition of the Declaration also specified the scope of harm or suffering in terms of physical, sexual, or psychological harm. The regional definitions adhered to this approach, except that some of them added economic damage, and others added death. It is also noted that the definition of the declaration added an element of threat, unlike the definition of the CEDAW Committee, and thus took into account the regional definitions, with the exception of the definition of the Inter-American Agreement, which did not explicitly mention the threat.

In addition to the above, the definition of violence against women in the Declaration included private and public life, and regional definitions agreed with that, while some of them expanded and included peace and war. The definition of the Declaration stipulated that coercion or deprivation of liberty is considered violence against women, and the definitions followed suit. Regionalism has the same approach, except that some made deprivation limited to basic freedoms, and others made deprivation within the scope of rights and freedoms, while the definition of the Inter-American Agreement did not mention deprivation.

Based on the above, it is clear that there is a deficiency in the Declaration's attempt to find a clear and comprehensive definition of violence against women, through which public policies can be drawn up to combat this violence, as the definition of the Declaration was limited to affirming the principle of non-discrimination between men and women in rights and freedoms, despite the wide scope of This idea, and the definition of violence against women

Against women, which could cause them physical, sexual, psychological and economic harm, including threatening to commit such acts, or imposing arbitrary restrictions on or deprivation of basic freedoms in private or public life, in peace or in the event of armed conflict or war? ", previous reference, and in the Istanbul Convention, violence against women according to Article (3/A) means "a violation of human rights, and a form of discrimination against women, and it means all acts of violence based on gender, which cause, or are likely to cause." Physical, sexual, psychological or economic harm or pain to women, including the threat of such acts, coercion or arbitrary deprivation of freedom, whether in public or private life," a previous reference, while the Arab Declaration defined it in Article (1) It is "all acts of violence at the family and community levels, which would cause both women and girls material or moral damage, including physical, sexual and psychological violence, or the threat of such acts, coercion or arbitrary deprivation of rights and freedoms, and this includes Violence includes, but is not limited to, domestic, home, community, and digital violence," op. cit In the Inter-American Convention, "any violent act motivated by gender bias," in the African Protocol, "any act or behavior based on sex," and in the Istanbul Convention, "all acts of violence based on gender," op. cit

African Protocol, Istanbul Convention, op. cit

Inter-American Convention, op. cit

Maha Al-Mana, previous reference, p. 21

Inter-American Agreement, African Protocol, Istanbul Agreement, Arab Declaration, op. cit

The Inter-American Agreement, the Istanbul Agreement, the Arab Declaration, the African Protocol included the state of peace, armed conflict or war, op. cit.

African Protocol, op. cit

The Arab Declaration, op. cit

Inter-American Convention, op. cit

Saed Zayed Al-Houri, Criminal Protection from Violence: A Study of Jordanian Legislation and International Agreements, Arab Journal for Security Studies, Volume (38), Issue (1), p. 97

according to the declaration was so incomplete that it fell outside its scope. Many forms of violence against women, such as violence committed by women against women! The researcher believes that violence against women can be defined as any act; omission or threat committed against a woman, resulting in material or moral damage or injury, or that would cause material or moral harm.

Second: The extent to which the Great Law is compatible with the definition of violence against women according to the Declaration

Qatari law did not include a definition of violence against women, as some Arab legislation did. Tunisian law defined it as “every physical, moral, sexual, or economic assault against a woman based on discrimination based on gender, which causes harm, pain, or physical, psychological, sexual, or harm.” economic harm to women, which includes the threat of such assault, pressure, or deprivation of rights and freedoms, whether in public or private life,” and Moroccan law defines it as “every physical or moral act or omission based on discrimination on the basis of sex, resulting in physical, psychological, sexual, or economic harm to women” “It is noted here that the above-mentioned definitions are consistent with the definition contained in the Declaration, and the observations we made regarding the definition of the Declaration apply to them. However, the aforementioned definitions added economic violence within the scope of the definition, which was not explicitly mentioned in the Declaration. On the other hand, the legislator included Moroccan abstention from action, which is something that was overlooked by both the Tunisian legislator and the declaration in question.

As for the term violence, it is mentioned in the Penal Code in eight places, and there is no explicit definition of violence against women in Qatari law, as Qatari law considers the act criminal as long as the illegal character of the act that is given to it by the criminalization text applies to it, and two conditions are required for it to be met: that the act be subject to the criminalization text. And it is not subject to a permissible reason, and the Qatari Penal Code defines the material and moral elements of the crime, so it defines the material element as

Chapter (3) of Tunisian Law No. (58) of 2017 regarding the elimination of violence against women, Official Gazette, Issue (65), p. 2586

Article (1) of Moroccan Law No. (103.13) regarding combating violence against women, Official Gazette, Issue (6655), p. 1449

Perhaps the reason for this is that Morocco and Tunisia are members of the African Union, as the African Protocol included economic violence within the definition, see footnote (64.)

Articles (47, 167, 168, 195, 198, 245 - bis, 245 - bis/1), Law No. (11) of (2004) promulgating the Qatari Penal Code, Official Gazette, No. 7, 5/30/2004, p. 53.

D. Mahmoud Naguib Hosni, Explanation of the Penal Code, General Section, Dar Al-Nahda Al-Arabiya, Egypt, 1989, p. 46.

Article (26), Qatari Penal Code, op. cit.

“a criminal activity by committing an act or refraining from an act, when this act or omission is legally criminal.” The Qatari Penal Code states that the moral element of the crime is fulfilled if “The perpetrator's will was directed towards committing an act or abstaining from an act. With the intention of causing the result punishable by law, error exists if the result punishable by law occurs due to the perpetrator’s error, whether this error is due to negligence, inattention, lack of precaution, recklessness, recklessness, or failure to observe the laws and regulations,” and by referring to the definition of violence against women in Declaration: The material element is achieved in “violent action,” “threat,” “coercion, or arbitrary deprivation of freedom.” According to this concept, negative behavior, represented by abstaining from action, falls outside the scope of violence against women. Abstaining from supporting one’s wife is not considered violence. Against her, as for the criminal result It can be said that it represents “harm or suffering to women from a physical, sexual, or psychological perspective,” and therefore any harm, whatever its degree, falls within the scope of

violence according to the declaration in question. Perhaps the goal of not stating the degree of gravity of this harm or suffering is to include as many people as possible. Of the practices within the scope of the definition, as for the causal relationship, the necessity of its existence becomes clear through the text “results in or is likely to result from it,” but the researcher believes that the phrase “is likely to result from it” is ambiguous. Therefore, according to the declaration’s definition, violence against women is considered a component of the material element of the crime as stated by Qatari law. Criminal intent is also clear to us in the declaration’s definition as the desire to harm or suffer a woman, knowing that the act leads to achieving this harm or suffering, and the motive for this act is “sexual fanaticism.”

Article (32), Qatari Penal Code, previous reference, and the Qatari Court of Cassation ruled that “the reasons that prompted the perpetrator of the crime to do this do not matter because they are among the motives that have no effect on the establishment of criminal liability.” Qatari Court of Cassation, Criminal Articles, Appeal No. (56) for the year 2014.

Negative behavior is the voluntary abstention from performing an act that the abstained person must perform, provided that the abstained act must be legally binding. See Dr. Muhammad Al-Amin Abu Hajar, Dr. Ahmed Al-Amin Abu Hajar, Al-Amin in Explanation of the Qatari Penal Code, Dar Al-Ilm Library, Egypt, 2012, pp. 90-91, Dr. Omar Al-Farouq Al-Husseini, Al-Wajeez fi Explanation of the Penal Code: General Section, Second Edition, Dar Al-Nahda Al-Arabiya, Egypt, 2011. p. 39, and the source of the obligation may be a legal text, derived from general legal principles, or the result of a contractual relationship, and it is required in both positive or negative behavior that the act or abstention result from the will, meaning that the will is the source of the act or abstention. For more details, see Ahmed. Mahmoud Khalil, Al-Waseet fi Explanation of the Qatari Penal Code, Book One: General Provisions, Dar Al-Kutub and Arab Studies, Egypt, 2017, pp. 321-322

It is worth noting that regional definitions addressed this problem either through generalization, as is the case with the Inter-American Convention, or by expanding the scope of deprivation to include basic freedoms, as the African Protocol did, or to include rights and freedoms, as the Arab Declaration did, op. cit

Therefore, it does not exist in the regional definitions that we previously referred to, and if it is said that it causes or is likely to cause, it is considered as likely to result, and it is answered that it is likely to cause means that the act or abstention from the act essentially leads to harm, except that The harm did not occur for a reason unrelated to the act, while it is likely that it means the possibility of the harm occurring, and this possibility expands the scope of criminalization to a very large extent.

“The motive for committing the crime shall not be taken into account, unless the law stipulates otherwise.” Article (35), Qatari Penal Code, op. cit

Thus, acts of violence committed against a woman by another woman are excluded from the scope of the definition, such as a mother hitting her adult daughter, or a mother killing her daughter in the event of a sexual relationship outside marriage, etc., and the Qatari Penal Code does not take into account the motive, and therefore it can be said that the provisions of The Penal Code, in Chapter One regarding crimes affecting human life and safety, dealt with most of the crimes that fall within the scope of the definition, such as murders and assaults on Body integrity, crimes affecting human freedom and sanctity, threatening crimes, and crimes of defamation, insults, and divulging secrets. Therefore, the researcher believes that the Qatari legislator saw the sufficiency of what was stated in the Penal Code, without the need to separate crimes if they are based on sexual fanaticism, because it does not take into account the motive at all. So, For example, a man hitting his wife based on the right of guardianship does not fall within the scope of criminalization in Qatari law. Although it is consistent with the definition of the aforementioned declaration, depriving a woman’s guardian of

her leaving the home, whether he is a husband, father, or anyone else, falls within the scope of violence included in the definition of the declaration, and is not considered a criminal in Qatari law, based on the text of Article (47) of the Declaration. The Penal Code, which states: "There is no crime if the act is committed with the right intention to fulfill a right established by Islamic law or the law, and within the scope of this right..." Therefore, Qatari law is considered incompatible with the definition of the declaration, because it does not explicitly contain a definition, and because its articles are insufficient to include the scope of the definition as stated in the declaration. However, the Qatari Family Law has established guarantees for women through whom they can demand their right in the event of abuse of the right or injustice against women.

Third: - : Qatari law takes into account the types of violence against women

According to the definition of the Declaration, violence against women includes two types of violence. The first type is what is called domestic violence, which is violence that occurs within the sphere of private life. The second type of violence is general violence that occurs in public life, and its source may be an individual. Or a group of individuals or a state. During this section, we will explain what is meant by each type, and the extent to which this is compatible with Qatari law, as follows:-

"The motive for committing the crime shall not be taken into account, unless the law stipulates otherwise." Article (35), Qatari Penal Code, op. cit.

Qatari Penal Code, op. cit.

Law No. (22) of (2006) promulgating the Family Law, Official Gazette, Issue (8), 8/28/2006, p. 159.

First: Private violence:

The Declaration defines private violence against women as "physical, sexual and psychological violence that occurs within the family, including beating and sexual abuse of female children in the family, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, and non-marital and gender-related violence." "by exploitation." On the other hand, there is no definition of this in Qatari law. However, Qatari law - as we mentioned previously - criminalizes crimes affecting physical safety, as it provided a text criminalizing murder, assault leading to death, assault that leads to permanent disability, and assault on physical integrity that prevents the attacker from performing his personal duties. The Penal Code also criminalizes non-serious assault, and Qatari law criminalizes rape, outrage of modesty, and immoral acts. It also criminalized incitement to immorality, debauchery, and prostitution, and equated the punishment for illegal sexual relations between men and women. However, Qatari law was devoid of a special provision for some cases that fall within violence within the family, such as the crime of honor killing, for which the premeditated murder provisions are not sufficient. To combat or deter it,

In addition, Qatari law does not recognize the crime of marital rape, nor is there anything in Qatari law that criminalizes depriving a woman of her dowry, or criminalizes female genital mutilation. The researcher believes that the texts of Qatari law are insufficient to combat crimes of private violence, due to the special nature of such crimes.

Article (2) Paragraph (A), Declaration on the Elimination of All Forms of Violence against Women, op. cit.

Articles (300, 302, 304, 305, 306, 307, 308, 309), Qatari Penal Code, op. cit.

Articles (279, 280, 286, 287, 288, 290, 291, 293), Qatari Penal Code, op. cit.

Articles (294-299), Qatari Penal Code, op. cit.

Articles (281, 282), Qatari Penal Code, *op. cit.*

For more details, see a previous research by the researcher entitled “Protecting Women’s Right to Life in Qatari Law: Honor Killing as a Model,” which was submitted as a requirement for one of the courses at Qatar University during the spring 2022 semester.

For more details, see the CEDAW Convention Committee, General Recommendation No. (35), Reference No. CEDAW/C/GC/35, see also Paragraph (173), the initial report submitted by Ms. Radhika Coomaraswamy, a previous reference. It should be noted that the Qatari legislator This concept is not taken into account, according to paragraph (28) of the State of Qatar’s response to the list of issues received from the Committee on the Elimination of Discrimination against Women, document No. CEDAW/C/QAT/Q/2/Add.1, which can be viewed through the following link https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FQAT%2FQ%2F2%2FAdd.1&Lang=ar ‘

See paragraph (132), initial report submitted by Ms. Radhika Coomaraswamy, *op. cit.*

Lebanese Law No. (293) of 2014 regarding the protection of women and other family members from domestic violence, Kuwaiti Law No. (16) of 2020 regarding protection from domestic violence.

Article (2) Paragraph (B), Declaration on the Elimination of All Forms of Violence against Women, *op. cit.*

Crimes and therefore many countries moved to issue special legislation to combat domestic violence, and therefore Qatari law is not considered compatible with the declaration in this part.

General violence according to the declaration, and in accordance with the texts of the articles that we have previously explained, and the Anti-Human Trafficking Law criminalizes trafficking in women and forcing them into prostitution.

As for the issue of “civil, sexual, and psychological violence committed by the state or condoned by the state, wherever it occurs,” we have previously shown that the provisions of the Penal Code address it. As for the issue of civil and psychological violence, the researcher believes that it is a vague issue, as it is clear from the above that The Declaration considers civil and psychological violence committed by states to be a manifestation of historically unequal power relations between men and women, which have led to domination and discrimination against women by men, preventing their full advancement, and that violence against women is one of the crucial social mechanisms by which women are subjected to a position of subordination. For man, Therefore, all issues adopted by the Qatari legislator in family law that are derived from the provisions of Islamic Sharia are considered to be in violation of this part of the declaration, because the provisions of Islamic Sharia amended between men and women, and did not equal absolute equality, because this equality is unfair to women, and despite the fact that The declaration calls for absolute equality while demanding that social customs or religious considerations not be invoked as an obstacle to achieving this equality. However, the State of Qatar is not obligated to amend the family law, due to its reservations on what is stated in the CEDAW Convention regarding equal rights related to the marriage contract and related to guardianship, guardianship, and guardianship of children.

Articles (2-4) specify the scope of criminalization, Articles (5-10) guarantee the protection of victims, and Articles (13-28) specify the penalties, Law No. (15) of (2011) regarding combating human trafficking, Official Gazette, No. 11), 11/21/2011, p. 9.

Article (2) Paragraph (C), Declaration on the Elimination of All Forms of Violence against Women, *op. cit.*

D. Najat Ali Mahmoud Aqeel, *International Efforts to Confront Violence against Women*, PhD thesis, Faculty of Law, Assiut University, Egypt 2015, p. 50.

Islamweb, Fatwa No. (166093), can be viewed through the following link: <https://www.islamweb.net/ar/fatwa/166093/absolute-equality-between-man-and-woman-contrary-to-the-law>. It was viewed in March 4, 2023.

Article (4), Declaration on the Elimination of All Forms of Violence against Women, op. cit.

Article (1), Decree No. (28) of 2009, approving the accession of the State of Qatar to the Convention on the Elimination of All Forms of Discrimination against Women 1979, Official Gazette, Issue (8), 8/30/2023, p. 62, Article (16), paragraphs (a), (c), and (f), Article (9/2), Convention on the Elimination of All Forms of Discrimination against Women, op. cit.

As for the inability of a Qatari mother to transfer her nationality to her children, as it is considered violence directed against women by the state, the State of Qatar confirmed in its report submitted to the CEDAW Committee that the Qatari Nationality Law includes a text that discriminates against women, which is the text related to the inability to transfer her nationality to her children in the event of her marriage. From a foreigner, and therefore “nationality is not granted to the husband of a Qatari woman and her children, given that granting nationality is a sovereign matter subject to the discretionary authority of the state,” as the Qatari Nationality Law affirmed that the provisions regarding nationality The Qatari woman has constitutional status, and he stated that the nationality bond is based on paternity. In this regard, the National Human Rights Committee confirmed that Qatari law still has gaps related to depriving women of granting their nationality to their children.

Despite this, the State of Qatar is not obligated to make men equal with women in granting nationality to their children, because it has made reservations to Article (9/2) of the CEDAW Convention, which stipulates that “State Parties shall grant women a right equal to that of men with regard to the nationality of their children.” However, invoking the constitutional nature of the provisions of the Nationality Law is not valid, given that the law in force at the time the Qatari Constitution came into effect was Nationality Law No. (2) of 1961, which is considered valid and enforceable in accordance with the text of Article (143) of the Qatari Constitution, and fundamentally based on what It can be said that Qatari law is not fully compatible with the declaration in this part.

CONCLUSION

From the above, it can be said that global declarations are considered the cornerstone on which international agreements are built. Declarations issued by international organizations have the same mandatory force as recommendations, and therefore they have moral and political value as a roadmap for establishing new rules in international law, and practical reality proves This is through the transformation of many advertisements into binding legal agreements, and this is the position of the Qatari legislator on the self-mandatory nature of advertisements.

The Declaration attempted to set a clear and comprehensive definition of violence against women as a violation of human rights, and considered violence against women to be gender-based violence. Regional definitions of violence against women took this same approach, and thus ignored violence committed by women against women.

Therefore, the Arab Declaration did not take issued in 2022 with this standard, and with regard to the position of Qatari law on the definition of violence against women, the texts of Qatari law did not It includes a specific definition of violence against women, and although the provisions of the Penal Code cover a large part of the concept of violence against women according to the (Declaration), it does not include all types of violence according to the aforementioned concept.

The Declaration divided violence to include violence in public and private life. Accordingly, the provisions of Qatari law are not considered sufficient to adhere to this division, as Qatari law does not explicitly cover crimes of domestic violence in the Penal Code, in addition to the fact that civil and psychological violence in public life, according to the perspective of the Declaration, is not consistent with the Family Law to consider women's subordination to men, and the inability of a Qatari woman to transfer her nationality to her children is considered violence against her according to the definition of the Declaration, and therefore the Qatari Nationality Law is not consistent with the provisions of the Declaration.

The Declaration recognized some rights derived from international agreements, such as the right to life, which the State of Qatar is largely committed to, with an indirect deficiency regarding the punishment of honor killing. The Declaration also recognized the right to equality and non-discrimination, despite the legislative efforts made by the State of Qatar to implement This right is derived from the texts of the Qatari Constitution, and the Qatari legislator's implementation of the principle of positive discrimination in favor of women. However, there are still some gaps, such as the conditions for benefiting from the housing system for divorced women and widows. The Declaration affirmed the right to freedom and personal security, and Qatari law guaranteed this, with some loopholes represented by the detention of the accused under the Community Protection Law. Moreover, the Declaration stated the right of women to enjoy good health, and the State guaranteed this, with some observations. Regarding not obtaining health care without the consent of the guardian or husband, which is denied by the concerned authorities, but approved by the practical reality, the declaration also considered a woman's right not to be subjected to torture as a right. If it is taken away from her, then this deprivation or deprivation is considered violence against women, and Qatari law is considered compatible with the provisions of the Declaration on torture in terms of criminalizing it as a crime of public authority, despite the exception that acts of torture that are not committed by official individuals are crimes of violence. Family law falls outside the scope of criminalization, but the provisions of the Qatari Penal Code provide a type of protection under the criminalization of assault on physical integrity. The declaration recognized the necessity of abandoning religious beliefs and cultural or social customs that fuel violence against women. As for religious belief, the Family Code is derived from Islamic law can apply to the concept of violence against women According to (the Declaration), and in implementation of the perspective of the Declaration, Qatari law is not considered compliant with what was stated in the Declaration in this regard, and with regard to social customs that could fuel violence against women, Qatari law is considered compliant with this part through the Constitution's approval of the pillars of Qatari society that Its foundations are justice, charity, freedom, equality, and good morals. The state also combated stereotypes of women by integrating them into society.

Despite the legislative developments that the State of Qatar has witnessed, there are still some applications or texts that do not comply with the provisions of the declaration, such as: the lack of oversight of the implementation of the Domestic Workers Law, which leads to forcing female workers to work long hours and without a weekly holiday, and the lack of A text requiring the translation of contracts, and the efforts of the State of Qatar in the field of prevention, protection and reintegration face problems due to the lack of sufficient awareness.

RESULTS AND RECOMMENDATIONS

First: Results :

1. The Qatari legislator supports the prevailing opinion that considers the provisions of the declaration not legally binding, and does not deny the existence of a moral or political obligation to them.

2. The declaration in question does not have the elements of the customary rule due to the lack of generality of the text from an objective standpoint, because its texts were defined within a specific objective framework, which is violence against women. Also, the General Assembly resolution through which the declaration in question was adopted does not represent formal generality because it was adopted. Without voting.

3. The concept of violence against women according to the Declaration faces shortcomings as it is based on discrimination based on gender.

4. Qatari law does not define violence against women, and the texts of Qatari law are not completely consistent with the concept of violence against women according to the Declaration. However, a wide range of forms of violence against women can be criminalized, as stated in the Declaration, according to the current texts of the Qatari Penal Code.

5. According to the declaration, violence against women includes violence in private and public life, and the provisions of Qatari law are not sufficient to cover all types of violence according to the aforementioned division.

6. The declaration stipulates a set of rights derived from relevant international agreements, and depriving women of them is considered violence against them. Although Qatari law guarantees these rights, it faces some legal loopholes.

7. The Declaration recognized the necessity of abandoning religious beliefs and cultural or social customs that fuel violence against women. The State of Qatar is considered to be in compliance with what was stated in the Declaration in terms of cultural and social customs. As for religious beliefs, the Declaration contradicts the legislative policy of the State of Qatar in terms of its reliance on the provisions of Islamic Sharia.

8. The State of Qatar has made notable efforts to enhance the status of women, protect their rights, and integrate them into society in a manner consistent with international obligations. However, there are still some applications in Qatari law that do not comply with the provisions of the Declaration or represent a deficiency in implementing the provisions of the Declaration.

Based on the above, the researcher was able to reach some recommendations, which are as follows:

1. Developing a concept of violence against women in Qatari law that specifically clarifies that this violence is not linked to gender-based discrimination in all cases, to overcome the shortcomings facing this concept in the declaration, and to contribute to demonstrating the commitment of Qatari law to this issue in accordance with the perspective of the Qatari legislator on violence against women.

2. Activating the role of the National Committee for Women's Affairs to fill the legal gaps related to combating violence against women, whether in private or public life.

3. The possibility of considering developing a law to combat domestic violence, or adding a chapter to the Penal Code that covers this type of violence, in compliance with international obligations, and on the condition that care is taken during the formulation of this law to avoid adopting all the liberal aspects mentioned in international law, which may lead to the exploitation of this law. To break up families and break away from parental authority.

4. Reviewing legislative tools (executive decisions, and administrative decisions issued by the Ministry of Interior, the Ministry of Health, and the Ministry of Education, for example) that promote the practice of violence against women or discrimination against women.

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