Fighting Domestic Violence - Bahrain

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**How to use and navigate this report**

# 1. Legal provisions

## 1.1 What are the relevant statutes and codes?

Please find below a list of the relevant laws in the Kingdom of Bahrain that would be applicable to cases pertaining to domestic violence:

Law No. 5 of 2002 approving the accession to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and its amendments

Law No. 17 of 2015 in relation to protection against domestic violence ("**Domestic Violence Law**")

the Constitution of the Kingdom of Bahrain dated 14 February 2002 and its amendments ("**Constitution**")[1]

Law No. 15 of 1976 and its amendments ("**Penal Code**")

Law No. 37 of 2012

Law No. 19 of 2017 ("**Family Law**")[2]

Law No. 26 of 1986, which guarantees the referral of family dispute cases to the Family Reconciliation Office prior to submission to the Sharia courts

Supreme Order No. 44 of 2001 establishing the Supreme Council for Women, an advisory body under the auspices of the king, which is responsible for drafting the general policy and acts as a reference on women's affairs for official bodies

## 1.2 What is the controlling case law?

The Kingdom of Bahrain is not a common law country and, as such, the concept of case law precedents does not apply to the Kingdom of Bahrain.

## 1.3 What are the specific parts of the court system that address domestic violence?

Family courts would deal with domestic violence in the event that domestic violence has occurred in the context of a marriage. However, no specialized domestic violence courts in the Kingdom of Bahrain deal with domestic violence outside the sphere of marriage. In this event, civil and criminal courts would deal with such cases under the relevant laws set out above.

## 1.4 What are potential causes of action?

Pursuant to the Penal Code, the following may be considered grounds for bringing a case of domestic violence:

Assaulting another without their consent is punishable by way of imprisonment for a maximum period of 10 years.[3]

Verbally assaulting a female in public or through the phone is punishable by way of imprisonment for a period not exceeding three months or a fine.[4]

Committing physical assault against another person, which causes the victim illness or the inability to perform personal matters for a period of more than 20 days is punishable by way of imprisonment or a fine, and the sentence would be increased if the assault is against a pregnant woman and results in a miscarriage.[5]

Committing physical assault against another in any manner where such assault results in permanent disability that was not intended is punishable by way of imprisonment for a maximum period of five years.[6]

Causing a permanent disability to another person is punishable by way of imprisonment for a maximum period of seven years.[7]

Committing physical assault against another in any manner without an intention to kill but such assault leads to the death of the victim is punishable by way of imprisonment for a maximum period of seven years.[8]

Any wrongdoing or mistake affecting the safety of another person's body is punishable by way of imprisonment for a maximum period of three years or a fine. The sentence will be increased if the wrongdoing/mistake results in a permanent disability or if the incident has occurred due to intoxication or the wrongdoing/mistake leads to the victim's death.[9]

Causing a woman to have a miscarriage without her consent is punishable by way of imprisonment not exceeding 10 years.[10]

Endangering the life of another who is unable to protect themselves due to their health or mental condition, or forcing another person to commit such act is punishable by way of imprisonment for a minimum period of three months and/or a fine. The punishment may be increased if the crime is committed in an area where no other people are around or if such act results in the death or permanent disability of the victim, or if such crime is committed by one of the victim's parents or grandparents or someone who has authority over the victim or who is considered the victim's guardian.[11]

Publishing the name or photographs of victims of rape and indecent assault crimes is punishable by way of imprisonment for a period not exceeding one year or a fine.[12]

Having sexual intercourse with a female without her consent is punishable by way of life imprisonment and/or the death penalty if the victim is less than 16 years old.[13]

A person who encounters their spouse in the act of adultery and immediately kills their spouse and his/her partner or assaults them leading to their death or disability will be imprisoned.[14]

It is important to note that, in the Kingdom of Bahrain, a person who inflicted against another any of the crimes set out above will not be punished if he and the victim are validly married.[15] It is also worth noting that detaining a person or depriving them of their freedom is punishable pursuant to the Penal Code, including if such act is accompanied by the use of force, the threat to commit murder or bodily harm, or acts of physical or mental torture.[16]

# 2. Introduction: framework guiding domestic violence law

## 2.1 Are there civil and criminal legal remedies for domestic violence victims?

Please refer to our answers above for the penalties provided under the Penal Code. The remedies available to victims under the Domestic Violence Law are as follows:

1. The Ministry of Social Development provides the following services:

the provision of shelters for the victim of domestic violence[17]

the provision of services for family, mental, social and health guidance and rehabilitation services for the victim[18]

the provision of legal aid for the victim if needed[19]

the provision of a representative to attend the criminal cases in relation to domestic violence on behalf of the victim[20]

the provision of a hotline for complaints and reporting domestic violence cases[21]

2. Upon receiving any reports in relation to domestic violence in a police station, the victim will be transferred to the nearest hospital or healthcare center for treatment if necessary[22] and, upon receiving an order from the public prosecution, the victim will be transferred to one of the shelters maintained by the Ministry of Social Development as soon as possible.[23]

3. The public prosecution may issue a temporary order to transfer the victim away from the family and, if the victim is a minor, the public prosecution would bring a case before the lower criminal court to determine custody (whether permanently or temporarily).[25]

4. The public prosecution may issue a protection order whereby the aggressor is required to remain away from the victim, remain distant from the family home or any place mentioned in the protection order, not to inflict any damage to the victim's personal property or the property of her family members, and to enable the victim or his/her authorized representative to receive his/her necessary personal belongings[26] Failure to observe a protection order may result in imprisonment for a period not exceeding one month and/or a fine not exceeding BHD 100. This sentence may be increased to a period not exceeding three months of imprisonment and/or a fine not exceeding BHD 200 if the failure to observe the protection order was done violently.[27]

## 2.2 Is domestic violence identified in national law as a human right (noting that at a European level protection from domestic violence has not been explicitly identified as a human right but is indirectly captured by the other provisions)?

Protection from domestic violence is not expressly identified as a human right; however, the Constitution provides that no person should be subjected to physical or mental torture, enticement or degrading treatment.[27]

## 2.3 Has your country signed and ratified the conventions?

Yes. The Kingdom of Bahrain ratified the CEDAW on 18 June 2002, which came into effect on 18 July 2002. It also issued Law No. 5 of 2002 agreeing to join the CEDAW. Article 37 of the Constitution states that the treaty had the force of law once Law No. 5 of 2002 concluded it. Since then, the Kingdom of Bahrain has followed the implementation of the articles of the convention through awareness programs and the preparation of periodic country reports or follow-up of the CEDAW committee's recommendations. The Kingdom of Bahrain also issued Law No. 15 of 2010 and Law No. 70 of 2014 amending and rephrasing some provisions of the CEDAW to be in line with the provisions of Islamic Sharia.

## 2.4 If it has ratified the Maputo Protocol, how has it been implemented into national law (African Union member states only)?

N/A

## 2.5 If it has ratified the 1979 Convention (CEDAW), how has the recommendations part of General Comment No. 35 been implemented into national law?

The Kingdom of Bahrain issued the Domestic Violence Law to implement General Comment No. 35 into national law on 5 August 2015 and published it on 13 August 2015 in the Official Gazette. It aims to afford protection to women against domestic violence through protective order measures;[28] establishes a Family Guidance Department in the Ministry of Social Development with regard to providing family guidance services and awareness efforts in relation to domestic violence;[29] reaffirms the criminalization of violence;[30] and sets out the measures and procedures for the prosecution and reporting of domestic violence, and protection for women who are victims of such violence,[31] setting out the penalties for the same.[32]

## 2.6 If the conventions have not been ratified or signed, is it envisaged that your country will do so?

N/A

# 3. Similarities and differences in terminology

## 3.1 Domestic violence

This term is defined in the Domestic Violence Law and it means all acts of abuse within the context of a family caused by one of the family members against the victim.

"Domestic violence crimes" is also defined in the Domestic Violence Law and means the following:

physical abuse: any attack by any means on the body of the victim

mental abuse: every act that leads to psychological damage to the victim, including defamation and insults

sexual abuse: (a) sexual assault and exploitation of the victim by any means to satisfy sexual desires and (b) exposing the victim to sexual materials or behavior

economic abuse: every act that leads to the victim being deprived of his/her right or freedom to deal with their assets causing the victim damage

"Family" is defined in the Domestic Violence Law and means the following:

a wife and a husband with a valid marriage contract and their children and grandchildren

the children of any of the spouses from another valid marriage

the parents and siblings of any of the spouses

a person included in the custody of an alternative family

## 3.2 Stalking

This term has not been defined in the Domestic Violence Law or the Penal Code.

## 3.3 Harassment

This term has not been defined in the Domestic Violence Law or the Penal Code.

## 3.4 Victim

This term has not been defined in the Domestic Violence Law or the Penal Code.

## 3.5 Abuser

Although this term is not explicitly defined in the Domestic Violence Law or the Penal Code, the definition of "domestic violence" in the Domestic Violence Law includes a clarification on the "abuser" being a member of the "family" committing an act of abuse against another "family" member. Please refer to the definition of "family" in the Domestic Violence Law set out above.

## 3.6 Civil protection order

This term is defined in the Domestic Violence Law as a "protection order" and it means an order issued by the public prosecution, the competent court or an investigating judge to protect the victim in accordance with the provisions of the Domestic Violence Law.

## 3.7 Causes of action

This term has not been defined in the Domestic Violence Law or the Penal Code.

## 3.8 Marital rape

This term is not defined because marital rape is not criminalized in the Kingdom of Bahrain. In addition, the Penal Code exempts the offender from criminal prosecution for the crimes of rape, sexual assault or immoral acts if he marries the victim.[33]

## 3.9 Are there any other important domestic violence terms defined in relevant domestic violence statutes and codes?

Unless listed above, no other important domestic violence terms are defined in the Domestic Violence Law or the Penal Code.

# 4. Protection for domestic violence victims and relief granted

## 4.1 Civil protection orders

## 4.1.1 Are there civil protection orders available to victims of domestic abuse?

Protection orders are available to victims of domestic abuse pursuant to the Domestic Violence Law to protect victims against domestic violence.

## 4.1.2 Who can petition for civil protection orders?

The victim can petition for a protection order or the public prosecution may issue a protection order on its own accord.[34]

## 4.1.3 Are there temporary custody of a child or child support orders?

Article 13 of the Domestic Violence Law states that the public prosecution may issue a temporary order to transfer the victim out of their family for their protection, and within two weeks identify a person to assume the victim's care either permanently or temporarily in the event that the victim is a minor.

It is important to note that there are no specific laws in the Kingdom of Bahrain governing child custody, and custody decisions and orders are based on Islamic law (Sharia). In determining custodial issues, Bahraini courts consider the parents' religion, permanent residence, income and the mother's subsequent marital status. Pursuant to Article 126 of the Family Law, in all cases, a mother must be Muslim and of sound health and mind to have custody of her children.

In Sunni jurisprudence, a mother has priority in the custody of her children until a son reaches 15 years old and a daughter is married and her marriage is consummated. Once a son reaches 15 years old or a daughter reaches 17 years old and she is not married, each is given the option of being under the care of either the mother or father.[35]

According to the Jaafari jurisprudence, the mother has priority in the custody of her children until a son or daughter reaches 7 years old, after which custody reverts to the father. Once a son reaches 15 years old or a daughter reaches 9 years old, each is given the option of being under the care of either the mother or father.

Moreover, in all cases, and in accordance with Article 127 of the Family Law, if the mother remarries, custody of the children reverts to the father, unless a judge determines that it is in the interest of the child to remain in the custody of the mother. In the absence of a child's parents, the Family Law permits the judge to award custody to other relatives or other parties. A judge can also call upon an expert in psychological and social matters in a custody hearing to assist in determining the best interest of a child.

It is also important to note that fathers have priority right over the guardianship of their children. A father or guardian is responsible for managing the child's affairs, upbringing and education. A custodian mother may not move outside the Kingdom of Bahrain with the child except by permission of the child's guardian, and a guardian may not move the child to another country without the permission of the custodian. Therefore, despite the regulations that award women physical custody, the father retains parental authority and guardianship over his children, effectively being in a position to prevent his former wife from traveling with their children or moving away.

## 4.1.4 Is there a provision to order the abuser to move out or stay away from places that the victims frequent?

The laws reviewed do not explicitly refer to any obligations to order the abuser to move out. However, under Article 12 of the Domestic Violence Law, the protection order would place the victim in a shelter under the Ministry of Social Development. Article 15 of the Domestic Violence Law further states that the abuser must stay away from the victim; not be exposed to the victim, approach any of the protective places or any place that is mentioned in the protection order; not damage any of the victims personal property or any property of the family members; and enable the victim or their authorized representatives to receive the victim's necessary personal belongings.

## 4.1.5 Are there any other types of emergency, preventive and civil protection orders?

The following laws that have been reviewed do not explicitly refer to types of emergency, preventive and civil protection orders:

the Domestic Violence Law

the Penal Code

the Family Law

Law No. 46 of 2002 with respect to the promulgation of the criminal procedure law ("**Criminal Procedure Law**")

Law No. 19 of 2001 with respect to the promulgation of the Civil Code ("**Civil Code**")

the Bahrain Citizenship Act 1963

## 4.1.6 Can these orders be requested by direct or indirect victims or legal representatives in children's cases?

Pursuant to the Domestic Violence Law, these orders may be issued by the public prosecution either of its own accord or at the request of the victim.[36]

## 4.1.7 Are there different types of civil protection orders, e.g., for a short- term period?

While the laws reviewed do not explicitly mention different types of protection orders, Article 13 of the Domestic Violence Law states that the public prosecution may issue a temporary order to transfer the victim out of their family for their protection, and within two weeks identify a person to assume the victims care either permanently or temporarily in the event that the victim is a minor.

## 4.1.8 Are ex parte orders permitted without the aggressor being present?

None of the above-mentioned laws explicitly refers to whether *ex parte* orders may be permitted without the aggressor being present.

## 4.1.9 Do emergency orders also extend protection for abuse and intimidation to family members of the victim?

There is no express reference to emergency orders pursuant to the Family Law or the Domestic Violence Law. However and in general, pursuant to the Domestic Violence Law, the protection order would contain restraints on the abuser not to approach any of the protective places of the victim or any place that is mentioned in the protection order; not to damage any of the victim's personal property or any property of the family members; and to enable the victim or their authorized representatives to receive the victim's necessary personal belongings.[37] Therefore, arguably, it may be requested that the place of the family members be expressly stated in the protection order to afford protection to the family members of the victim.

## 4.1.10 How long do the orders last?

Protection orders will last for a period not exceeding one month.[38] The protection order may be renewed through an order of the lower criminal court for a period not exceeding three months and this period will also apply in the event that the abuser breaches or violates the order.

In the event that either party would like to appeal the protection order, this may be done within seven days from the date the protection order was issued by requesting a repeal or amendment.[39] If the public prosecution issued the order, the grievance will be before the lower criminal court. If the order was issued from the lower criminal court, the grievance will be before the high criminal court in its capacity as an appellate.

## 4.1.11 Please provide any data or hyperlinks to government or NGO websites that include information on how often civil protection orders are issued, and any relevant demographics information, e.g., police reports, convictions, etc.

The Kingdom of Bahrain does not have a common database on domestic abuse cases or how often protection orders are granted. Through research on legal websites and information in local newspapers, we note the following.

**Filed complaints related to domestic violence**

In 2016, 850 cases of domestic violence were registered between January and June 2016. The relevant cases toward women and children were as follows: (a) 473 cases registered of violence by the husband against the wife, of which 21 cases reported to be moderate to extreme violence; (b) 42 cases registered of violence by the parents against their daughter; (c) 32 cases registered of violence by the mother against her children; (d) 10 cases registered of violence by the father against his children; and (e) six cases registered of violence by the brother against his sister. Please use the following link for more information (Arabic text only): [2016 registered cases.](https://www.legalaffairs.gov.bh/5203.aspx?cms=q8FmFJgiscL2fwIzON1%2BDruIElf3tLti)

The Ministry of Justice reported 420 cases of physical or sexual abuse as of September 2019, of which 116 involved children. Of the 420 cases, 47 resulted in conviction. Twelve cases of rape were reported between January and September 2019, one of which was referred to court. Please use the following link for more information (English text only): [2019 registered cases.](https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/bahrain/)

In 2020, Kingdom of Bahrain-based Shamsaha, the first and only crisis response program in the Middle East for women, recorded 129 cases of domestic abuse in April 2020 compared to 88 in March 2020. Please use the following link for more information (English text only): [2020 registered cases](https://www.zawya.com/mena/en/legal/story/Domestic_violence_against_women_in_Bahrain_surge_46-SNG_173704187/).

**Number of victims of domestic violence in shelters within the last four years**

Dar Al Aman 2016 to 2018: Dar Al Aman in collaboration with the Ministry of Social Development welcomed approximately 2,885 victims of domestic violence between 2016 and 2018. Please use the following link for more information (Arabic text only): [Dar Al Aman Cases — 2016 to 2018](https://alwatannews.net/article/839374/Bahrain/%D8%AA%D8%AC%D8%B1%D9%8A%D9%85-%D8%B6%D8%B1%D8%A8-%D8%A7%D9%84%D8%B2%D9%88%D8%AC-%D9%84%D8%B2%D9%88%D8%AC%D8%AA%D9%87-%D9%81%D9%8A-%D8%A7%D9%84%D8%AA%D8%B4%D8%B1%D9%8A%D8%B9-%D8%A7%D9%84%D8%A8%D8%AD%D8%B1%D9%8A%D9%86%D9%8A).

2018: 84 women suffering from domestic violence were registered in Dar Al Aman in 2018 — of which there were 36 Bahraini nationals, 30 Arabs, 15 foreign workers and three domestic workers. Forty-eight of the victims suffered from psychological to physical violence and 10 cases required emergency assistance. Thirty-three of the victims were aged between 22 and 31; 26 were aged between 32 and 41; 29 were aged between 12 and 21; and five were aged 42 or older. Please use the following link for more information (Arabic text only): [Dar Al Aman Cases — 2018](https://www.alayam.com/alayam/local/748622/News.html).

**Child Protection Center**

In 2016, 595 children were registered in the Child Protection Center suffering from violence ranging from moderate to extreme. Please use the following link for more information (Arabic text only): [Child Protection Center cases — 2016.](https://www.alayam.com/alayam/first/633345/News.html)

## 4.2 Steps for receiving a protective order

## 4.2.1 What documentation is needed to obtain a civil protection order?

While the laws reviewed do not mention the documentation needed to obtain a protection order, Article 14 of the Domestic Violence Law states that upon the public prosecution receiving a complaint on domestic violence, a report containing the following information/statements will be prepared:

the time, date and place of the domestic violence complaint

name of the petitioner and their identification documents

the time the investigation started and ended

type of abuse committed against the victim and tools used (if any)

a statement detailing the child's exposure to violence and what had occurred in front of them (in the event that the victim is a child)

any other form of statements that will assist to identify the violence, its cause and consequences

any relevant documents that the victim would like to include

any form of protection procedure/measures taken when filing the report

Upon such information being obtained, the public prosecution may issue a protection order under Article 15 of the Domestic Violence Law of its own accord or at the request of the victim. The abuser would be subject to certain restraints and, depending on what is included in the protection order, the victim will be transferred to a shelter of the Ministry of Social Development for her safety and as soon as possible if it is a child.[40]

## 4.2.2 Does the victim need to attend a hearing?

The Ministry of Social Development may provide the victim with a representative to attend the criminal cases in relation to domestic violence on behalf of the victim.[41] In addition, the public prosecution and police will be obliged to do the following:[42]

ensure the protection of the petitioner and guarantee the nondisclosure of their name and identity, unless judicial proceedings require otherwise

listen to the parties and any witnesses — in the case of children, they will be in appropriate separate rooms and have the opportunity to state their claims freely and confidentially

maintain the confidentiality of all calls, communications and procedures relating to the cases of domestic violence

## 4.2.3 Can you request remedies?

None of the above-mentioned laws explicitly refers to whether remedies may be requested (other than a request for a protection order).

## 4.2.4 Are there time limits?

The laws reviewed do not explicitly mention any time limits with regard to reporting incidents of domestic violence. However, in practice, it is recommended to report the case as soon as it occurs, especially if the abuse is physical. The police will transfer the victim to the nearest hospital/health center if required,[43] upon which medical reports and evidence will be issued to strengthen the victim's case and prove the extent of the violence.

## 4.2.5 Are there different rules in emergencies?

While the laws reviewed do not explicitly state if there are different rules in emergencies, there are specific protective measures and services that would help the victim in cases of emergencies.[44] Examples include but are not limited to shelters for the victim, legal assistance, hotlines to report domestic violence, and social, medical and family counseling services where required. Please refer below to a summary of the institutions in the Kingdom of Bahrain with a brief explanation of their services and contact numbers.

**Bahrain Women's Union**

Guidance with regard to assistance on which institutions victims may call or go to that may provide assistance.

Contact number: +973 77444457

**Aisha Yateem Family Counseling Center**

Counseling.

Contact number: +973 80001488

**AWAL Center for Legal and Social Consultations**

The center provides the following services:

informal therapy sessions where therapists speak to the victims and provide advice in relation to domestic abuse and the procedures to follow

lawyers are available and can provide advice on divorce if required

offers hourly paid work opportunities to victims

Contact number: +973 38380709

**Mawada Family Counseling Center — Supreme Council for Women (SCW)**

Counseling.

Contact number: +973 17727485

**Batelco Center for Family Violence**

Guidance and counseling.

Contact number: +973 17597777

**Wed Family Counseling**

Counseling.

Contact number: +973 33995533

**Dar Al Aman for Abused Women**

This provides the following services:

shelter for women transferred from the police station or the Ministry of Social Development

lawyers and psychiatrists are available if required

Contact number: +973 17874614

**Child Protection Center**

The center provides the following services:

services and support for the children and family

temporary or permanent foster care where necessary

Contact number: +973 17103280

## 4.3 Judicial discretion

## 4.3.1 What discretion does a judge have in granting a civil protection order or other protective orders?

The Domestic Violence Law does not provide any grounds or specific discretion for a judge to issue or grant a protection order.

## 4.3.2 Are there age limits on who can obtain orders?

The Domestic Violence Law does not provide any age limits for obtaining a protection order.

## 4.4 Restitution and remedies available to victims

## 4.4.1 Can victims obtain reimbursement for costs and restitution paid?

The Domestic Violence Law does not provide for the payment of costs and restitution.

## 4.4.2 Can they recover wages and profits lost?

The Domestic Violence Law does not provide for recovery of wages for the victim. However, pursuant to Article 8 of the Domestic Violence Law, if a person has come to know about a domestic violence case by virtue of their work, such person has an obligation to report the same to the relevant authorities.

## 4.4.3 Is a separate civil process required?

The Domestic Violence Law and the Civil Code do not provide for a separate civil process to be taken by victims.

# 5. Prosecutorial considerations

## 5.1 Police procedures

## 5.1.1 When do the police get involved in domestic disputes or legal actions?

The police get involved once they are notified of the occurrence of domestic violence. Pursuant to Article 10 of the Domestic Violence Law, the public prosecution and the police departments are obliged to receive domestic violence complaints and must take all the necessary legal procedures once they are notified of the domestic violence. According to Article 12 of the Domestic Violence Law, the police must adhere to the following upon receiving a domestic violence complaint: (i) transfer the victim to the nearest hospital or health center for treatment when required; or (ii) upon the public prosecution's order, transfer the victim to a governmental shelter as soon as possible.

Additionally and pursuant to Article 13 of the Domestic Violence Law, to protect the victim, the public prosecution may also issue a temporary decision to transfer the victim away from the victim's family.

## 5.1.2 What circumstances effect law firm involvement?

The Penal Code, the Criminal Procedure Law and the Domestic Violence Law do not regulate aspects relating to law firms in the context of domestic violence.

## 5.2 Standard of proof

## 5.2.1 Is proof required by any legal means?

Article 14 of the Domestic Violence Law states that upon being notified of a domestic violence occurrence, the public prosecution must document the following:

the hour, date and place of receipt of the complaint

the name of the person who made the notification and that person's personal data

the time the investigation commenced and when it was completed

the type of violence committed against the victim and the tool used, if any

a statement detailing a child's exposure to the violence and its occurrence in front of them or its occurrence toward them

any other statement regarding the circumstances of the violence, its causes and consequences

any documents that are relevant or that the victim wishes to include

any protective measures taken upon receipt of the complaint

In a booklet published by the SCW in 2018 titled "The Protection of Women Against Violence," the SCW states that evidence of domestic violence can include trustworthy medical records and a criminal report or complaint made at a police station. Therefore, the SCW recommends that a victim of domestic violence immediately report a domestic violence incident to prove its occurrence by receiving a medical examination to prove its effects before they fade.

## 5.2.2 Are there any requirements regarding evidence and documents?

Please refer to the above answer.

## 5.2.3 Is proof "beyond a reasonable doubt" required?

The Penal Code, the Criminal Procedure Law and the Domestic Violence Law do not address this point.

## 5.2.4 Is the standard of proof different for ex parte orders?

The Penal Code, the Criminal Procedure Law and the Domestic Violence Law do not address this point.

## 5.3 Affirmative defenses

## 5.3.1 Are affirmative defenses available to the accused?

The laws reviewed do not specify any defense for domestic violence specifically. However, Article 353 of the Penal Code acquits the defendant from the crimes of rape and/or sexual assault if the defendant marries the victim. Further, if a court judgment is issued against the defendant for any of the aforementioned crimes before the marriage takes place, such judgment and its penal effects will cease to exist.

## 5.3.2 Is willful intent required?

Please refer to our answers in Section 1.4. The Penal Code does not specify that intention is a requirement to bring a claim for physical harm, assault or abuse.

## 5.3.3 Are false accusations punishable for the victim?

Pursuant to Article 234 of the Penal Code, a person who makes a false accusation against another person where such accusation would lead to criminal punishment will be imprisoned or fined, even if a case related to the false accusation does not proceed. The punishment for a false accusation is both imprisonment and a fine if the alleged crime is a felony; and the punishment is a prison sentence if the false accusation leads to a felony verdict. If the false accusation led to a punishment of death and it was carried out, the penalty for the false accusation is death as well.

## 5.3.4 How is consent discussed in the law?

Consent is addressed in the Penal Code with regard to assault and/or rape. However, this would not apply in the case of a married couple, as mentioned above.

## 5.3.5 Is self-defense or insanity a defense?

**Self-defense**

Article 17 of the Penal Code generally states (irrespective of the crime) that a person has the right to claim self-defense if both of the following factors are present: (i) the victim is in imminent danger of a threat to himself/herself or to his/her money, or believes to be in such danger and such belief is reasonable; and (ii) if the victim cannot resort to the authorities to prevent such danger in the appropriate time. The latter will apply if the threat of danger is toward the person or his/her money, or if it is toward a third party's self or his/her money.

**Insanity**

The Penal Code addresses mental illness and of not being of sound mind in various articles. The Penal Code does not explicitly state that insanity may be used as a defense; however, in such case, a judge may order a reduced sentence for the crime or order that the defendant be taken to a sanatorium. Specifically, Article 33 of the Penal Code states that if a person is, at the time of committing a crime, lacking in his/her mental capacity or free will because of an illness, he/she will be subject to a mitigating punishment in accordance with the provisions of Articles 71 and 73 or he/she will be kept in a sanatorium.

The Penal Code further acknowledges mental and psychological illness in Articles 87 and 88 of the Penal Code. It clarifies that if an act constituting an offense is committed by a person who is under the effect of a severe mental illness, mental or psychological disorder or impairment rendering him/her unable to be in full control of his/her action, a judge will order that such person be kept in a sanatorium.

## 5.4 Witness status

## 5.4.1 What is a witness's duty to testify honestly and completely?

In accordance with Article 119 of the Criminal Procedure Law, a witness who is 15 years old will be under oath by saying, before giving testimony, that they swear to say the truth and nothing but the truth. Such oath will be according to the special conditions applicable in their religion, if required. The testimony of an underage witness may be heard without taking the oath.

## 5.4.2 Who may abstain from testifying in certain situations?

Article 121 of the Criminal Procedure Law allows the accused's parents/grandparents, children, blood relatives, in-laws in the second degree and spouse (even after the termination of the marriage) to abstain from giving testimony against the accused, provided that the crime has not been committed against the witness of his/her spouse or blood relatives or in-laws mentioned, or that the witness is the person who reported the crime, or if no other evidence is present.

## 5.4.3 What potential "excuses" can a witness raise to refuse to testify in a domestic violence action?

The Penal Code, the Criminal Procedure Law and the Domestic Violence Law do not address this point.

## 5.4.4 What is the impact of domestic violence on witnesses who are children?

Pursuant to the Domestic Violence Law, the public prosecution and police will be obliged to listen to the parties and any witnesses. In the case of children, they will be in appropriate separate rooms and have the opportunity to state their claims freely and confidentially.[45] It is our understanding that a public prosecutor must document data, including a statement detailing the children's exposure to violence and any incidence that occurred in front of them. The recovery process of witnessing domestic violence must always include a strong support system and healthy relationships. The government of the Kingdom of Bahrain strongly addresses the social welfare of children up to 18 years old from all forms of bad treatment and negligence. For instance, the Child Protection Center was established in 2007 as a governmental and central body. It provides health, psychological, legal and family services to children subjected to violence, physical or psychological abuse and neglect. The Child Protection Center also provides monitoring, investigation, treatment and follow-up services to child victims of physical abuse and neglect.

## 5.4.5 Can children be called upon to testify?

Pursuant to the Domestic Violence Law, the public prosecution and police will be obliged to listen to the parties and any witnesses. In the case of children, they will be in appropriate separate rooms and have the opportunity to state their claims freely and confidentially.[46]

Pursuant to the Criminal Procedure Law, a witness who is 15 years old will be under oath by saying, before giving testimony, that they swear to say the truth and nothing but the truth. Such oath will be according to the special conditions applicable in their religion, if he so requests. The testimony of an underage witness may be heard without taking the oath.[47]

It is also important to note that the accused's children and blood relatives can abstain from giving testimony against the accused, provided that the crime has not been committed against the witness of his/her spouse or blood relatives, or that the witness is the person who reported the crime, or if there is other evidence present.[48]

## 5.4.6 What is the effect of a child victim on the charges against the offender?

Pursuant to Article 12 of the Domestic Violence Law, at the request of an order issued by the public prosecutor, the victim, especially children, will be transferred to one of the shelters maintained by the Ministry of Social Development in cases of domestic violence as soon as possible. Further, the General Prosecutor's Office may issue a temporary decision to transfer the victim outside of their family for protection, as long as the case is presented to the lower criminal court if he/she is a minor or has no family within two weeks to identify the person who will assume his/her care, either temporarily or permanently.

## 5.5 Penalties and sentencing; penalty enhancements

## 5.5.1 What are the penalties and sentencing laws for first-time domestic violence offenses?

Although there is no specific mention of different punishments for first-time offenders and repeat offenders, the Penal Code sets out general offenses that may apply to domestic violence. Each of the penalties and sentencing laws of these offenses are set out below:

Article 336 states that a person who physically assaults another without the intention to kill them but the assaults leads to the death of the victim will receive a prison sentence of up to seven years.

Article 337 states that the same punishment mentioned above will apply to any person who intentionally causes another a permanent disability. Permanent disability includes an injury that causes the cutting or dismembering of a limb or amputation of a part of a limb, or the loss or deficiency of its use, or the permanent loss of the total or partial functions of one of the senses. A physical deformity that likely cannot be removed is also considered a disability.

It is considered an aggravating circumstance of both an Article 336 offense and an Article 337 offense if any of the circumstances mentioned in Article 333 apply to the crime. These circumstances include that the crime occurred with stalking/surveillance or premeditation, or if the crime is linked to or is associated with another crime, or if a poisonous or explosive material is used. If the perpetrator was under the influence of drugs or alcohol, this also constitutes an aggravating circumstance in the case of an Article 336 offense.

As for physical assault that leads to a permanent disability that the perpetrator did not intend to cause, Article 338 states that the punishment for this crime will be a prison sentence for a maximum period of five years. This sentence can increase to up to 10 years if the perpetrator is under the influence of drugs or alcohol, or if any of the Article 333 circumstances mentioned above apply.

Article 339 states that imprisonment or a fine will be the punishment for any person who attacks the safety of another person's body in any way, and such assault causes the victim illness or the inability to preform personal matters for a period of more than 20 days. If the crime does not lead to that level of gravity, then the penalty will be imprisonment for a maximum period of one year or a maximum fine of BHD 100. It will be an aggravating circumstance if the assault is against a pregnant woman and it leads to a miscarriage.

Article 342 states that if a person's wrongdoing causes the death of another, the punishment will be imprisonment. If a person's wrongdoing affects the safety of another person's body, Article 343 states that the penalty will be imprisonment for a maximum period of one year or a maximum fine of BHD 100. This penalty can be increased to a maximum of two years of imprisonment, or a maximum fine of BHD 200 if the wrongdoing results in a permanent disability or if the perpetrator was under the influence of drugs or alcohol during the incident.

Article 343 states that imprisonment for a maximum period of three years or a fine not exceeding BHD 100 will be the penalty for any person whose wrongdoing/mistake affects the safety of another person's body. If the wrongdoing/mistake results in a permanent disability or if the incident occurred due to the intoxication of the perpetrator, the penalty will be imprisonment for a maximum period of two years or a fine not exceeding BHD 200. Imprisonment will be the punishment if the wrongdoing/mistake leads to the victim's death.

Article 322 states that the penalty for any person who causes a woman to have a miscarriage without her consent will be a maximum prison sentence of 10 years and a prison sentence will also be the punishment if such crime leads to her death.

Article 334 states that imprisonment will be the penalty for any person who surprises their spouse, catches them in the act of adultery and immediately kills their spouse and his/her partner, or assaults them leading to their death or disability. The right of self-defense is not permitted in this offense.

Article 357 states that the punishment of imprisonment will be the penalty for a person who captures another person, or detains them or deprives them in any illegal manner of their freedom. A prison sentence will be the penalty if, among other circumstances mentioned in Article 357, the detention lasts longer than a month or the act includes the use of force, a threat to commit murder or bodily harm or acts of physical or mental torture.

It is important to note that the sexual assault and rape offenses mentioned in the Penal Code would not apply to a domestic violence scenario if the parties were married according to Article 353. Please refer to Section 5.3.1 for further clarification.

## 5.5.2 Are there criminal penalties?

Please refer to the above answer. The Penal Code offenses mentioned above are all criminal offenses.

## 5.5.3 What is the result of a violation of an existing order for protection?

If the perpetrator violates a protection order, Article 15 of the Domestic Violence Law allows the protection order to be renewed for up to three months. In addition, according to Article 16, a violation of the order would result in the imprisonment of the perpetrator for a maximum period of one month and a fine of BHD 100, or only one of these punishments. In the event that such violation occurs with violence toward any of the individuals included in the Domestic Violence Law, then the punishment, in the absence of a more severe punishment in the Penal Code, would be for a period of up to three months and a fine of BHD 200, or only one of these punishments.

## 5.5.4 What fines and other penalties are imposed besides incarceration and liberty restriction?

Please refer to question 1 of Section 5.5.1.

## 5.6 Post-release restrictions

## 5.6.1 Does the law notify the victim of the offender's release from custody?

The Penal Code, the Criminal Procedure Law and the Domestic Violence Law do not address this point.

# 6. Special issues

## 6.1 Battered woman syndrome

## 6.1.1 Can lawyers present evidence of battered woman syndrome or other domestic abuse as an affirmative defense to crimes that the battered woman has committed? (Note: Battered Woman Syndrome is accepted by courts in certain jurisdictions to show that battered women can use force to defend themselves and sometimes kill their abusers due to abusive and life-threatening situations.)

Battered woman syndrome is not explicitly mentioned in the laws reviewed. It is not clear whether presenting evidence of battered woman syndrome or other domestic abuse can be considered an affirmative defense to crimes the battered woman has committed.

## 6.2 Domestic violence in the workplace

## 6.2.1 Can courts issue orders to protect employees suffering from domestic violence?

There are no specific orders in relation to protecting employees suffering from domestic violence in the laws reviewed. However, the public prosecution may grant a protection order forbidding the abuser from approaching the locations specified in the order, which at the discretion of the public prosecution may include the workplace.[49]

## 6.2.2 Can departure be deemed "for good cause" if related to domestic violence?

The laws reviewed do not specify the instances and repercussions of departure in the context of domestic violence.

## 6.2.3 Can family members of domestic violence victims take reasonable leave to help the victim seek treatment or obtain help and services?

Labor Law No. 36 of 2012 in the private sector does not specify instances where paid leave is granted to help family members seeking treatment or help.

## 6.3 Immigration

## 6.3.1 Does the law include provisions that are intended to prevent abusers who are citizens or permanent residents from using immigration laws to perpetrate domestic violence against their spouse?

In the event that immigrants are treated the same way as citizens of the Kingdom of Bahrain, then the remedies and penalties set out above would apply equally to all individuals. However, the laws that have been reviewed do not explicitly refer to provisions that are intended to prevent abusers who are citizens or permanent residents of the Kingdom of Bahrain from using immigration laws to perpetrate domestic violence against their spouse.

Please note that the definition of "family" in the Domestic Violence Law does not specify the nationality of the wife or any family member as long as the marriage contract is a valid contract.

## 6.3.2 If battered immigrants cooperate with law enforcement in domestic violence, can they obtain immigration remedies?

The laws that have been reviewed do not explicitly refer to provisions under which battered immigrants may obtain immigration remedies in the event of cooperation with law enforcement in domestic violence cases.

## 6.3.3 Does domestic violence law discuss asylum accessibility?

The Domestic Violence Law does not discuss asylum accessibility.

## 6.4 Armed forces

## 6.4.1 Can a victim seek a military protective order if the abuser is in active military?

The following laws that have been reviewed do not explicitly refer to a military protective order that can be obtained by a victim:

the Domestic Violence Law

the Penal Code

the Family Law

the Criminal Procedure Law

the Civil Code

the Bahrain Citizenship Act 1963

## 6.5 Child custody and child/spousal support

## 6.5.1 Do judges follow special rules to determine custody or visitation of children in domestic violence cases?

We believe that the determination of these child custody decisions would be on a case-by-case basis and pursuant to Family Law and Sharia principles; therefore, there is no specific laws determining the same for cases of domestic violence.

## 6.5.2 Can the judge consider the testimonies of the other spouse and the children when determining custody?

Yes. Please refer to our answers above.

## 6.6 Housing rights of domestic violence victims

## 6.6.1 Does the law include any barriers to prevent landlords from forcing a tenant to move out because they are victims of domestic violence?

The laws reviewed do not explicitly refer to any barriers that may prevent landlords from forcing tenants to move out because they are victims of domestic abuse.

## 6.6.2 Does the law allow a tenant to terminate his/her lease early due to domestic violence?

The laws reviewed do not explore the right to terminate a lease due to domestic violence.

## 6.6.3 Can an order exclude the abuser from the residence?

No specific order excludes the abuser from the residence; however, there are protection orders that safeguard the victim in a shelter or a safe place. When a domestic violence report is received, the police station transfers the victim to the nearest hospital or health center if necessary. Based on an order from the public prosecution, the victim is transferred to one of the Ministry of Social Development's shelters. The public prosecution can grant a protection order forbidding the abuser from approaching the locations specified in the order; however, there is no express mention of excluding the abuser from his place of residence.[50]

## 6.6.4 Can abusers be forbidden by court orders to alienate or mortgage the property in his/her name if it is the family domicile?

The laws reviewed do not expressly state any provisions by which a court may forbid abusers from alienating mortgaging the property in his/her name if it is the family domicile.

# 7. Endnotes

[1]    Article 19(d) of the Constitution provides that no person should be subjected to physical or mental torture, enticement or degrading treatment. The Constitution further ensures the principles of equality for all (Article 4) and that there should be no discrimination on the basis of sex (Article 18).

[2]    The Family Law aims to preserve the rights of women in litigation in matters related to Sharia; provides support to women and children; and considers the physical, psychological and economic harms suffered as reasons for granting divorce. However, there are reservations and differentiation in the treatment between men and women with regard to the minimum age of marriage, male guardianship over women, divorce, polygamy, guardianship and custody of children and inheritance.

[3]    Article 346 of the Penal Code.

[4]    Article 351 of the Penal Code.

[5]    Article 339 of the Penal Code.

[6]    Article 338 of the Penal Code.

[7]    Article 337 of the Penal Code.

[8]    Article 336 of the Penal Code.

[9]    Articles 343 and 342 of the Penal Code.

[10]    Article 322 of the Penal Code.

[11]    Article 320 of the Penal Code.

[12]    Article 246 of the Penal Code.

[13]    Article 344 of the Penal Code.

[14]    Article 334 of the Penal Code.

[15]    Article 353 of the Penal Code.

[16]    Article 357 of the Penal Code.

[17]    Article 7(3) of the Domestic Violence Law.

[18]    Article 7(4) of the Domestic Violence Law.

[19]    Article 7(5) of the Domestic Violence Law.

[20]    Article 7(6) of the Domestic Violence Law.

[21]    Article 7(10) of the Domestic Violence Law.

[22]    Article 12(1) of the Domestic Violence Law.

[23]    Article 12(2) of the Domestic Violence Law.

[24]    Article 13 of the Domestic Violence Law.

[25]    Article 15 of the Domestic Violence Law.

[26]    Articles 16 and 17 of the Domestic Violence Law.

[27]    Article 19(d) of the Constitution.

[28]    Article 7 of the Domestic Violence Law.

[29]    Article 2 of the Domestic Violence Law.

[30]    Article 8 of the Domestic Violence Law.

[31]    Articles 9-15 of the Domestic Violence Law.

[32]    Article 16 of the Domestic Violence Law.

[33]    Article 353 of the Penal Code.

[34]    Article 15 of the Domestic Violence Law.

[35]    Articles 124, 125, 126 and 128 of the Family Law.

[36]    Article 15 of the Domestic Violence Law.

[37]    Article 15 of the Domestic Violence Law.

[38]    Article 15 of the Domestic Violence Law.

[39]    Article 15 of the Domestic Violence Law.

[40]    Article 12 of the Domestic Violence Law.

[41]    Article 7(6) of the Domestic Violence Law.

[42]    Article 9 of the Domestic Violence Law.

[43]    Article 12 of the Domestic Violence Law.

[44]    Article 7 of the Domestic Violence Law.

[45]    Article 9 of the Domestic Violence Law.

[46]    Article 9 of the Domestic Violence Law.

[47]    Article 119 of the Criminal Procedure Law.

[48]    Article 121 of the Criminal Procedure Law.

[49]    Article 15 of the Domestic Violence Law.

[50]    Articles 12, 13 and 15 of the Domestic Violence Law.

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