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United Nations Entity for Gender Equality
and the Empowerment of Women

Gender-Related Laws, Policies and Practices in Lebanon

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Lebanon-Beirut 2018

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Index

Gratitude and Appreciation

List of Abbreviations

Preamble

Executive Summary

Section 1. Overview of the constitutional and international legal landscape related to the national mechanisms

Arab and International framework

Lebanese Constitution

National mechanisms: Policies and Strategies (in relation with women)

Section 2. Fragmented Equality

Penal Code

Rape and indecent acts

Sexual harassment

Honour crimes

Adultery and sex outside of marriage

Abortion

Article 534

Personal status laws

Civil marriage

Age of marriage

Rights and responsibilities

Divorce

Guardianship and child custody

Legacy

Nationality Law

Labour, Social Security, Taxes and Commerce Laws

Women participation in public life

Section 3. Inadequate Protection Frameworks

Law on the Protection of Women and Family Members from Domestic Violence.

Law on the Protection from Human Trafficking.

Law on the Protection of Juveniles in conflict with the law or at risk.

Section 4. Obstacles to access to justice

General Obstacles to access to justice:

At individual or personal level

At societal level

At institutional level

Obstacles to particular groups' access to justice:

Women in jails

Women refugees

Housemaids

Women with disabilities

Elderly women

Conclusion

Gratitude and Appreciation

This report is a result of the cooperation between the United Nations Population Fund (UNFPA), United Nations Development Programme (UNDP), United Nations Gender Equality and Women Empowerment (UN Women).

The present Act addresses the laws, policies and practices relating to gender justice and equality in Lebanon. Thus, the purpose of this report is to discuss and analyse the most prominent loopholes and gaps, in addition to providing concrete recommendations to the policymakers and the various actors who are concerned to promote the gender-based justice and equality in Lebanon.

With warm thanks and gratitude, we acknowledge the valuable information and contributions provided by Me. Manar Zeaiter, who finalized the report. This Act is a result of a consultation process of basic data submitted by the governmental and non-governmental representatives, as well as by legal and effective experts in Lebanon. It is based on the assessment of Lebanon which forms one of the twentieth chapter of the regional report under the title of “Gender-based Justice and Law in Arab Countries”, which is a comprehensive study drafted by the commission of the United Nations Development Programme, United Nations Population Fund and UN Women in 2015 and finalized by John Godwen and Nadia Khalifeh.

We hereby acknowledge the serious work, devotion and valuable contributions of all the partners who added their observations on the report. These frameworks include the civil society organisations, legal actors and academic institutions such as: KAFA(enough) Violence and Exploitation, Abaad, Association Najdeh, Save the Children, Terre des Hommes, Arab Institute for Human Rights, Collective for Research and Training on Development – Action (CRTDA), Care International, Plan International, Institute for Women’s Studies in the Arab World at the Lebanese International University, Caritas, Women Now for Development, Almeethaq for Human Rights, Society for the Protection, International Medical Corps, Solidarity Foundation, Euromed Feminist Initiative, Legal Action Worldwide (Law), INTERSOS, Human Rights Watch, International Rescue Committee, and Government Stakeholders; including the Office of the Minister of State for Women’s Affairs, Ministry of Justice, Ministry of Social Affairs, Internal Security Forces, National Commission for Lebanese Women and the United Nations Agencies in Lebanon, including the United Nations Disaster Relief, International Labour Organization, OHCHR Regional Office, United Nations Office on Drugs and Crime, UNESCO, UNICEF, United Nations Office for Project Services, United Nations High Commissioner For Refugees, UNRWA, International Organization for Migration, ESCWA, United Nations Development Programme, UN Women and United Nations Population Fund.

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Finally, our gratitude goes to the people of Japan for their generous financial contribution in disseminating the report.

List of Abbreviations

UNFPA	United Nations Population Fund
UNDP	United Nations Development Programme
UN Women	United Nations Entity for Gender Equality and the Empowerment of Women
UNICEF	United Nations Children's Fund
UNRWA	United Nations Relief and Works Agency for Palestine Refugees in the Near East
ESCWA	United Nations Economic and Social Commission for Western Asia
UNHCR	United Nations High Commissioner for Refugees
OHCHR	Office of the United Nations High Commissioner for Human Rights
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
Resolution 1325	Resolution of the UN Security Council for Women, Peace and Security
Paris Principles	Principles relating to the National Institutions Work Standards for Human Rights Protection and Promotion
Law 293	Law on the Protection of Women and Other Family Members from Domestic Violence
Law 164	Law to Punish Human Trafficking
Law 2002/422	Law on the Protection of Juveniles in conflict with the law or at risk
Law 200/220	Law on the Rights of Persons with Disabilities in Lebanon

Preamble

The United Nations Population Fund (UNFPA), the United Nations Development Programme (UNDP) and the United Nations Entity for Gender Equality and the Empowerment of Women (UN Women) conducted in 2018 a joint study in 20 Arab countries, including Lebanon on laws, policies and practices related to gender-based justice and equality. The mapping with respect to Lebanon was developed through:

- ▶ Interventions suggested in the consultative meetings concluded by the Gender-Related Working Group of the United Nations Country Team on November 2017 ,9,
- ▶ Meetings with experts and jurists under the umbrella of the Sexual and Gender-Based Violence Task Force (SGBV TF) on 10 November 2017,
- ▶ Observations of international and local organizations, relevant United Nations agencies and independent legal experts.

The concerned authorities involved in this mapping, namely UNFPA, UNDP and UN Women, have considered to further develop the mapping, include it new centres and conduct an in-depth analysis of the most prominent gaps and challenges that hinder the achievement of gender-based justice and equality in Lebanon, which makes the present report as a simplified advocacy tool that can be used by various actors to promote gender-based justice and equality in Lebanon. The report was developed through individual consultations and consultation meetings in which international and national organizations, representatives of governmental and non-governmental institutions and bodies and a number of legal experts have participated. We hereby mention that the Ministries and the concerned governmental bodies had followed-up and supported the course of the report drafting throughout their participation in meetings and through sending observations and written contributions related to the various centres of the report.

Executive Summary

More than a decade after the United Nations' adoption of the Convention on the Elimination of All Forms of Discrimination against Women, which is adopted by many countries including Lebanon, these countries returned in 2015 to commit themselves to achieve gender equality and to empower all women and girls as one of the development agenda goals for the coming years¹. According to this goal, gender equality is no longer a fundamental human right only, but also one of the necessary foundations for peace, prosperity and sustainability at the social and economic level.

Despite the various efforts made in Lebanon to achieve gender-based justice and equality, the picture is still bleak. In 2017, Lebanon ranked 137th out of 144 countries in the world and 11th among 14 Arab countries on the global gender gap index of the World Economic Forum².

This index and others require an auditing analysis in a political, economic, cultural, social and security factors that Lebanon is undergoing. Therefore, this report will show a rebuttal of some of the most significant aspects of gender justice and equality in Lebanon, then study it by analysing the collection of legislation and policies and the based-on practices at the level of the state and other actors. Thereupon, the present report includes four sections:

The first section is a general overview that presents the Lebanese State's commitments at the international level, as well as at the level of the Constitution, national policies and strategies related to the Gender cases in Lebanon.

The second section outlines the main aspects of discrimination and violence against women and girls in Lebanon through presenting the relevant laws such as the Penal Code, the Nationality Law, and the personal status laws, in addition to the Labour, Social Security, Taxes and Commerce Laws, with providing a summary presentation of women's participation in public life.

The third section refutes the protective laws aspects adopted by Lebanon in the recent years. These laws include the Law on the Protection of Women and Other Family Members from Domestic Violence, Law on Criminalizing Human Trafficking, and finally the Law on the Protection of Juveniles in Conflict to Law or at Risk.

As for **the fourth and final section** of the report, it outlines the main procedural and structural obstacles affecting the access to gender-based justice and its consequences, in addition to the obstacles that affect the most marginalized group³s.

1 For more information about the fifth goal from the sustainable development agenda, please review the following link: <https://www.un.org/sustainabledevelopment/ar/gender-equality>

2 The global gender gap index seeks the consideration of an important aspect of gender equality, i.e relative gaps between men and women in four main domains: health, education, economy and politics.

3 There is no definition for the term "marginalized groups", but it refers to the groups that are most vulnerable to human rights abuses such as children, women, refugees, migrant workers, and persons with disabilities. Those people are living vulnerable situations that make them subject to discrimination and violence.

Section 1. Overview to the constitutional and international legal landscape relating to the national mechanisms

I. Arab and International framework

Lebanon has joined many international efforts relating to Human Rights cases and development. These contributions may be monitored throughout the following international frameworks:

In 1948, Lebanon contributed to drafting the Universal Declaration of Human Rights.

In 1972, Lebanon acceded to the International Covenant on Civil and Political Rights. However, despite signing in 2007 the Optional Protocol to the Special Covenant on the acceptance of individual complaints procedures, it has not acceded to the second Optional Protocol to the Special Covenant on the abolition of the death penalty.

In 1972, Lebanon acceded to the International Covenant on Economic, Social and Cultural Rights but has not acceded to the Optional Protocol related to the mechanism on accepting individual complaints.

In 1971, Lebanon signed the International Convention on the Elimination of All Forms of Racial Discrimination⁴.

In 1991, Lebanon acceded to the Convention on the Rights of the Child. And in 2004, it signed the Optional Protocol thereto on child selling, child prostitution and pornography. As for the Optional Protocol on the involvement of children in armed conflict, Lebanon signed it in 2002.

In 1996, Lebanon concluded the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) under Law No. 592, which came into effect on the 1st of August 1996. However, this Convention was subject to reservations on two basic subjects: article 9 related to nationality and clauses (c), (f), (d) and (g) of article 16 related to personal status, in addition to the reservation made to article 29 thereof. Lebanon has not acceded to the Optional Protocol thereto.

In 2000, Lebanon acceded to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. It also joined in 2008 the Optional Protocol thereto. In 2017, Lebanon adopted the Law to Punish Torture and Other Cruel, Inhuman or Degrading⁵ Treatment or Punishment, which entered into force on October, 2017, 26 after being published in the Official Gazette. Despite the importance of the law, it did not meet the expectations of the civil society. One of its main flaws is that the crime of torture is dropped by prescription, and it maintains some cases of torture within the jurisdiction of the military courts⁶.

4 Article 22 states that " In case any conflict occurs between two States or more of the States Parties concerning the interpretation or the application of this agreement, whereas its settlement becomes impossible by negotiation or procedures stipulated expressly in this agreement, this conflict shall be referred to the International Court of Justice to be adjudicated upon, on the request of any of the conflict's parties, otherwise the disputants agree on another way to settle it." (article 22 included grammatical errors; therefore, it has been corrected).

5 <http://www.upr-lebanon.org/archives/1563>

6 <https://www.hrw.org/ar/news/2017/11/13/311297>

However, Lebanon has not yet ratified or joined some basic agreements, amongst which are:

- ▶ The Convention on the Rights of Persons with Disabilities which Lebanon did not sign until 2007 without joining to the Optional Protocol thereto.
- ▶ Lebanon has taken no steps to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.
- ▶ The International Convention against Enforced Disappearance was adopted by Lebanon in 2006 and signed only after one year. On 09.05.2018, the parliamentary administration and justice committee endorsed the proposal of the enforced missing and disappeared persons' law⁷. The proposal includes main points relating to “the enshrinement of the right to recognition and access to the parents of the enforced disappeared victims, and to constitute an independent, competent and national body having immense powers to ensure these rights, as well as introducing mechanisms of cemetery digging, whether it is mass or private grave or corps, to extract the remains and deliver them to the missing persons' parents.”
- ▶ Lebanon acceded only to seven of the eight main Conventions of the International Labour Organizations (ILO) that addresses the fundamental cases of Human Rights, including forced labour, child labour, freedom of association, equal opportunities, and treatment in employment⁸.
- ▶ Lebanon acceded to Geneva Conventions and their Protocols⁹, with the exception of Protocol III issued in 2005¹⁰.
- ▶ Lebanon has not acceded to the Refugee Convention of year 1951 and its Protocols and has not acceded to the Rome Statute that established the International Criminal Court.

International Humanitarian Law acknowledges that women face specific problems during armed conflicts¹¹. It stresses the need for women in conflicts to enjoy equal rights with men, whether they were militants or protected persons, as well as to protect them from rape, forced prostitution or any form of degrading violence¹².

In order to emphasize the importance of this international context, article 2 of the Code of Civil Procedure in Lebanon stipulates the primacy of the provisions of international treaties over the provisions of ordinary law: “Courts must comply with the principle of hierarchy. If the provisions of international treaties conflict with the provisions of ordinary law, the former shall take precedence over the latter in the field of application. Courts may not declare the legislative authority acts void due to the non-compliance of the ordinary laws with the constitution or the international treaties¹³”.

However, the second section of the article prohibits the courts from declaring the acts of the legislative authority void due to the non-compliance of ordinary laws with the constitution or the international treaties. The matter that a party considers restrictive of the first paragraph effectiveness of Article 2; whereas another party considers it a normal matter due to the adoption of principle of separation of powers in Lebanon¹⁴. In a relevant context, this text does not refer to the position of international law against the Constitution itself. However, the principle of hierarchy of sources relevant to Lebanese legal justice guarantees the supremacy of the Constitution. Thus, the international treaties adopted by the Parliament are of higher importance than domestic legislation but are less important than those provided for by the Constitution.

7 <https://www.lp.gov.lb/ViewContentRecords.aspx?id=32>

8 http://www.ilo.org/beirut/countries/lebanon/WCMS_561694/lang--ar/index.htm

9 https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/vwTreatiesByCountrySelected.xsp?xp_countrySelected=LB

10 <https://treaties.un.org/pages/showdetails.aspx?objid=0800000280158b1a>

11 <https://www.icrc.org/ara/war-and-law/protected-persons/women/overview-women-protected.htm>

12 <https://www.crin.org/en/library/publications/international-criminal-court-icc-arabic>

13 For more information about the Code of Civil Procedure in Lebanon, please review: http://legallaw.ul.edu.lb/LawView.aspx?opt=view&LawID=244565#Section_259810

14 On 29th of June, 2018, this point was raised during the consultation meeting held in Beirut for the imperative of upgrading the report.

International treaties enter into force once they have been ratified, thus enabling domestic courts to apply the provisions of international treaties, including human rights instruments ratified by Lebanon. For this purpose, not only Lebanese courts should be able to directly use international instruments but also litigants. There is, however, a lack of consistent practice in this regard, since the enforcement of the human rights of women as provided for in the relevant international treaties ratified by Lebanon appears to be left to the discretion of the judiciary. For instance, the courts rarely refer to or issue a decision with respect to the CEDAW, the Universal Principles and the Lebanese Constitution. It is worth mentioning the existence of extremely advanced provisions by which the Lebanese judiciary is playing a role in the protection of rights and freedoms, some of which addressed the issue of protecting women from domestic violence, while others focused on the protection of those who experience legal marginalization¹⁵.

In recent years, Lebanon has started interacting with the treaty bodies through submitting national reports, and concluding observations have been issued by a number of treaty bodies¹⁶. In 2015, the Committee on the Elimination of Discrimination against Women issued the concluding observations of the Lebanese State and the next periodic report shall be due to be submitted in 2019.

In 2016, the Committee on the Elimination of Racial Discrimination issued concluding observations of the Lebanese State and it is assumed that the next periodic report will be due in December 2018.

The concluding observations of the Committee on Economic, Social and Cultural Rights were also issued in 2016, and the next periodic report shall be due in 2021.

In 2017, the Committee against Torture issued concluding observations, and the next periodic report shall be due in 2021.

In 2017, the Committee on the Rights of the Child submitted its concluding observations and the next periodic report shall be due in 2023.

In 2018, the Human Rights Committee issued the concluding observations and the periodic report shall be due in 2023.

Lebanon's interaction with the treaty bodies can be found on the website of the Office of the High Commissioner for Human Rights (OHCHR)¹⁷.

Regarding the **Universal Periodic Review (UPR)**¹⁸, Lebanon conducted the first cycle of review in November 2010 and the second cycle in November 2015. The review of Lebanon's second cycle entailed a larger number of recommendations compared to the first cycle, with 257 recommendations submitted by 93 countries. However, Lebanon accepted only 139 recommendations¹⁹. In accordance with the UPR mechanism, the voluntary national mid-term report is due to be submitted to the Human Rights Council in 2018. Nothing indicates that there is an intention to submit this report, while several non-governmental organizations are working on drafting a parallel mid-term report within a national coalition²⁰.

15 <http://74.220.207.224/newsarticle.php?id=895&folder=legalnews&lang=ar>

16 http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Countries.aspx?CountryCode=LBN&Lang=AR

17 www.ohchr.org

18 It is the most recent mechanisms of international human rights protection established by the decision issued by the general assembly no. 25/60 dated on July 15, 2006, which details were presented in the resolution no. 1/5 of the Human Rights Council dated on June 18, 2007, and through which the Human Rights Council was mandated to present, on periodic basis every four years and a half, the performance of all state members in the United Nations to its engagements and undertakings in the human rights domain for the purpose of enhancing its statuses in these countries. For more information, please review: <http://www.ohchr.org/AR/HRBodies/UPR/Pages/UPRSessions.aspx>

19 <http://www.ohchr.org/AR/HRBodies/UPR/Pages/LBIndex.aspx>

20 Arab NGO Network of development coordinates to drafting the mid-term report with a large number of civil society organizations working in the Lebanese, Syrian and Palestinian environment in Lebanon, and the report shall be due to be submitted during July 2018.

The third report will be submitted to the Human Rights Council during the thirty-seventh session of the Human Rights Council in 2020²¹.

As for reacting to the special procedures, Lebanon was one of the countries that adopted the open invitation system on March 2011, 17, and witnessed a number of visits while rejecting others. The results of the reports prepared after these visits can be accessed on the OHCHR website²² in order to reinforce the course of interaction with the International Human Rights Bodies.

The Ministry of Human Rights in the Lebanese government submitted a draft decree in 2017 to establish an entity or committee responsible for drafting periodic reports on international agreements in the field of human rights and to follow up the recommendations issued by the international human rights protection mechanisms. On February 2018, 08, a decision has been issued by the Lebanese Council of Ministers to form a national committee that drafts periodic reports on the international human rights treaties and follows up the recommendations of the committees deriving therefrom, provided that the Ministry of Foreign Affairs²³ would be the committee's secretary. Lebanon is also hosting, within the framework of cooperation on human rights mechanisms, the OHCHR-Middle East Regional Office²⁴.

All actors from governmental, non-governmental and national institutions can make use of the Universal Human Rights Index, which aims at facilitating access to human rights recommendations resulting from the three main pillars of the United Nations human rights protection system, namely the treaty bodies established under the international human rights treaties, the special procedures and the Universal Periodic Review under the Human Rights Council²⁵.

Despite all these steps through which the Lebanese State seeks to enhance interaction with the international context on human rights, and with all the mechanisms previously mentioned, there are several gaps associated with the compliance with international human rights protection mechanisms, either by governmental or non-governmental frameworks, such gaps are:

- ▶ Lebanon has not accede to a number of core conventions and their annexed optional protocols.
- ▶ Lack of access to the general recommendations and comments resulting from the international human rights protection mechanisms; in particular a large number thereof that is related to gender cases²⁶.
- ▶ Lack of knowledge of great many stakeholders such as government and non-governmental institutions involved in these mechanisms.
- ▶ Lebanon has not comply with the submission of periodic reports that are in line with concluding observations mostly requested by the treaty bodies on specific recommendations within one or two years.
- ▶ Failure of the Lebanese State to properly publish and mainstream concluding observations.

21 http://www.ohchr.org/Documents/HRBodies/UPR/UPR_3rd_cycle.pdf

22 http://spinternet.ohchr.org/_Layouts/SpecialProceduresInternet/ViewCountryVisits.aspx?Lang=ar

23 <http://www.presidency.gov.lb/Arabic/News/Pages/Details.aspx?nid=24668>

24 <http://www.ohchr.org/AR/Countries/MENARegion/Pages/MenaRegion20122013.aspx>

25 <http://www.ohchr.org/EN/HRBodies/Pages/UniversalHumanRightsIndexDatabase.aspx>

26 Access to the general recommendations issued by the Committee on the Elimination of Discrimination against Women is a significant matter, in addition to the general recommendations and comments issued by the treaty bodies that a number of which discussed the gender-based discrimination cases, such as the general recommendation no. 25 issued in 2000 by the Committee on Racial Discrimination on gender dimensions of the racial discrimination, the general comment no. 28 issued in 2000 by the Committee on equal rights for men and women, the general comment no. 20 issued in 2009 by the Committee on Economic, Social and Cultural Rights on non-discrimination in economic and social rights, and the general comment no. 2 issued in 2008 by the Committee against Torture on the agreement implementation, which stipulates measures for the protection of individuals and groups made vulnerable by discrimination or marginalization.

- ▶ The course of interaction with the international human rights protection mechanisms is limited to a range of human rights and women's organizations.
- ▶ Many women's organizations focus on the Convention on the Elimination of All Forms of Discrimination against Women, disregarding other international legal references.

In a context related to international mechanisms, the Development Agenda beyond 2015 was acknowledged and 17 goals were determined which the United Nations membership states are bound to achieve; among it is Lebanon that agreed on its engagement to these goals through the speech delivered by the Lebanese Prime Minister Saad Al Hariri at the Sustainable Development Summit on September 2017, 26 in New York²⁷. In June 2017, the Lebanese Government formed the National Committee to lead and coordinate national efforts in order to implement the 2030 Development Agenda. The committee's task is to integrate the programmes, projects and initiatives practiced by the current government concerning the sustainable development goals; especially that many of which follow the same lines: Create awareness regarding the sustainable development goals and the importance of its achievement, upgrade a national database on the sustainable development goals indexes and submit periodic voluntary reports to the United Nations²⁸. Lebanon will submit its voluntary national report to the United Nations High-Level Political Forum that was held in July 2018²⁹. Lebanon will submit its report and will be subject to a Q/A session on July 2018, 18. At the civil society level, relevant organizations in Lebanon considers the possibility to use the course of national review as a tool to reinforce the national dialogue and to ensure the participation, as well as a platform to promote transparency and mutual accountability. For many civil society organizations in Lebanon observations on the voluntary national report addressed the method of report drafting and its content, and the gaps that prevent achieving progress in implementing the development goals³⁰.

The fifth goal of the world countries' agenda, including Lebanon, determines the six applied purposes that deal with the following domains: Discrimination against women, violence against women, elimination of all harmful practices such as: Child marriage, early marriage, forced marriage, female genital mutilation, unpaid domestic work, ensure women's full and effective participation, equal opportunities for leadership at all levels of decision-making in political, economic and public life, ensuring universal access to sexual and reproductive health-care services.

Understanding the spirit of this agenda and the pillars of its placement establishes the expansion in studying the equality between the two genders in Lebanon. Hence, this study is necessary to assess the reality in Lebanon. As for the fifth goal, strategic and focused work thereon is required. In a recent report of the Lebanese university and the institute of social sciences in the Lebanese university in partnership with the United Nations Population Fund on gender equality in Lebanon from the fifth goal's perspective, weakness in available quantitative and quality researches is still obvious; despite Lebanon's positive official adoption of the agenda and the closely cooperation between the official entities and the civil society organizations in working on women issues. Thus, these researches are found to be rare and mostly comparatively old, which prohibit the measure of the society development process according to the report, also do not help in reading the reality and looking ahead³¹.

27 <https://www.sdglebanon.com/service>

28 The voluntary national reviews are introduced within the framework of following-up and reviewing the 2030 sustainable development agenda. The review is conducted before the high-level political forum on voluntary Sustainable Development under the state's supervision. However, drafting the report requires the adoption of a participatory way with the concerned parties and the actors of the agenda, and that aims to follow-up the progress attained at the level of the 2030 agenda implementation. For more information, please review the handbook of voluntary national reviews preparation issued by the sustainable development division – administration of social and economic affairs – United Nations, copy 2018. https://sustainabledevelopment.un.org/content/documents/18061VNR_Handbook_Ar.pdf

29 For more information on the voluntary national report submitted by Lebanon, please review the following link: https://sustainabledevelopment.un.org/content/documents/19484Lebanon_VNR_2018.pdf

30 Many organizations of the civil society in Lebanon participate in the high-level political forum during which equal sessions are organized and equal reports and statements on voluntary national report are published. For more information, it is advised to review the efforts of the Arab NGO network of development: www.annd.org

31 Gender equality in Lebanon is a reality, horizons and challenges 2000-2018. A study of the 2030 sustainable development fifth goal's perspective. Beirut, June 2018 – Lebanese University – Social Sciences Institute in the Lebanese University in coordination with the UNDP

In their concluding observations to the Lebanese State, the treaty bodies call for the implementation of Human Rights Conventions within the framework of Lebanon's implementation of the 2030 Sustainable Development Agenda, due to the relevant practical steps leading to achieve the goals of these treaties and charters. But few years after the adoption of the agenda, the following can be noted:

- ▶ Weak linkages between Human Rights Conventions and the Sustainable Development Agenda which are tackled by various actors as two separate spaces.
- ▶ NGOs adoption of the Agenda as a starting point for accountability remains low.
- ▶ Poor knowledge of the Agenda in general and how to implement it. Efforts to understand and analyse the Agenda remain limited to a few groups³².

At the Arab level, Lebanon joined the Arab Charter on Human Rights in 2008 and is interacting with the Arab Human Rights Committee or what is known as the Charter Committee³³. In 2015, Lebanon submitted its first report to the Charter Committee, and several recommendations were issued in many domains³⁴.

Moreover, Lebanon adopted the «Arab Strategy on Women, Security and Peace» accredited by the Secretariat of the League of Arab States in 2012, in addition to the «Cairo Declaration on Arab Women», which can be considered as «an agenda for Arab women beyond 2015». The Declaration includes the political, economic, health and social fields as well as the issue of violence against women and violence in times of war and conflict³⁵.

Recommendations:

At the international legislation level, Lebanon shall accede to the international conventions and non-ratified optional protocols related to the conventions; especially the Convention on the Rights of Persons with Disabilities, the Convention of Rights of Migrant Workers and Members of their Families, and the Convention on the Protection's Right against all forms of enforced disappearance. It also required the withdrawal of reservations of the Lebanese government to the Convention on the Elimination of All Forms of Discrimination against Women; and joining the optional protocol attached thereto, in addition to the Lebanese State's fulfilment of its obligations under the Beijing³⁶ Declaration. In the same context, it is necessary to introduce the international treaties in the national legislations and to ensure the compatibility and alignment of these latter with the international context governing human rights.

At the level of interaction with international human rights protection mechanisms, the Lebanese government shall engage to submit the periodic official reports at due dates to all international human rights protection mechanisms and to facilitate access to the concluded observations and recommendations addressed to the Lebanese government through its publication and mainstream. It is also important to promote the co-operation and coordination between the governmental and non-governmental frameworks in interaction with the international protection mechanisms.

32 It is advised to review these sources that help in clarifying the relationship between the context of the development agenda and human rights.

<http://www.ohchr.org/EN/HRBodies/Pages/UniversalHumanRightsIndexDatabase.aspx>

<http://sdg.humanrights.dk/>

<https://www.humanrights.dk/upr-sdg-data-explorer>

<http://upr.humanrights.dk/countries>

33 It is the body established by virtue of the Charter and responsible to supervise its implementation through reviewing the periodic reports of the membership states and reviewing it every three years, whereas the reports shall be discussed with the states and publicly published recommendations shall be issued.

34 <http://www.lasportal.org/ar/humanrights/Committee/Pages/Reports.aspx>

35 <http://www.lasportal.org/ar/sectors/dep/Pages/DepVersions.aspx?RID=22&SID=6>

36 The pledges stated in the Arab Declaration "Towards justice and equality for women in the Arab region", issued by the High-Level Arab Conference held in Cairo in 2015, shall be taken seriously to assess the implementation of Beijing Platform of Action. For more information:https://www.unescwa.org/sites/www.unescwa.org/files/events/files/1500416_0.pdf

At the 2030 development agenda-specific level, the Lebanese state shall prioritize the implementation of the Sustainable Development Agenda; especially the fifth goal thereof on gender equality, women and girls' empowerment and ensuring the serious partnership with the civil society working on gender-based justice and equality whether in planing the agenda implementation or within assessment and monitoring courses. In this context, many actors in legal and development domain shall link between the sustainable development agenda, human rights mechanisms, national strategic design and programmes that analyse both contexts and clarify the way of their overlapping.

At the cognitive level related to the international context governing Lebanon's international human rights respect and protection engagements, many actors in the legal, political and public space shall develop their knowledges on the international context related to the international human rights law and the international humanitarian law. Also, many actors in the governmental and non-governmental framework shall integrate human rights and gender approaches within different interferences, and shall develop simple cognitive tools on integration that help complementing these interferences in the jural trend. It is also necessary to establish the capabilities of many actors in the use of the international treaties whether in defending, advocacy or pressure.

At the national legal level, The Lebanese state shall include article 2 of code of civil procedure in the Lebanese Constitution.

“The perspective of gender integration is the reflection assessment process of any planned procedure over men and women, including the legislations, policies or programmes in any domain and at all levels. It is a strategy to make men and women’s sorrows and experiences an integral part of policies and programmes’ assessment, supervision, implementation and design in social, economic and political domains, provided that it benefits both men and women and that gender inequality shall not last. Thus, the final goal of gender integration is to achieve gender equality.”
Defenition of the United Nations Social and Economic Council in 1997 to the gender integration concept.

II. The Lebanese Constitution

The Lebanese Constitution of May 1926 ,23, and its subsequent amendments addressed provisions that define the rights and duties of Lebanese citizens. Under the constitutional amendment issued in 1989, a preamble was added to the Lebanese Constitution, which states in paragraph (B) that “Lebanon is Arab in its identity and in its affiliation. It is a founding and active member of the League of Arab States and subscribes to its covenants. Lebanon is also a founding and an active member of the United Nations Organization and subscribes to its covenants and to the Universal Declaration of Human Rights. The Government shall embody these principles in all fields and domains without exception”. Paragraph (C) of the preamble to the Constitution stipulates that “Lebanon is a parliamentary democratic republic founded on respect for public freedoms and rights, foremost among which is freedom of opinion and belief, social justice and equality of rights and duties of all citizens without distinction or preference».

Decision No. 1 dated 1997/9/12 of the Constitutional Council's jurisprudence considered that the principles contained in the preamble of the Constitution enjoy constitutional power, as do the provisions of the Constitution itself, whereby the preamble of the Constitution is considered as an integral part thereof. Despite this importance, the Lebanese Constitution faces structural problems, mainly:

► In referring to Lebanese citizens, the Constitution excludes foreign women from constitutional protection against discrimination, which breaches Lebanon's obligations under the international law, according to which Lebanon is required to respect and ensure respect for the human rights of all persons within its territory and jurisdiction without discrimination and regardless of nationality. Correspondingly, another divergent opinion considers that the Constitution enshrines equal protection out of considering the principle of equality in respecting and ensuring rights without any distinction is one of its constitutional fundamental principles devoted in the Lebanese regime (paragraph "C" of the preamble to the Constitution, articles 9, 7 and 11 of the Constitution, Universal Declaration of Human Rights, International Compact, and the International Convention on the Elimination of all Forms of Racial Discrimination ratified by the state on 12.11.1971). According to this opinion, the official state devices are obliged to respect this principle without discrimination based on race, colour, descent, or national or ethnic origin or even religion³⁷.

► The Constitution does not include a provision that defines and prohibits the Convention on the Elimination of All Forms of Discrimination against Women pursuant to article 2 (paragraph A) therefrom, which is one of the top recommendations of the Committee on the Elimination of Discrimination against Women to Lebanon.

► Article 7 of the Constitution provided for equality before the law but did not expressly provide for equality in law³⁸. Most of the international treaty bodies have given rise to this problematic. In the first place, many legislations are still including discrimination. In the second place, the anti-discrimination legislation that covers all discrimination reasons prohibited by virtue of the international covenants are absent. In the third place, the concern shall not be ignored because of poor effective remedies to victims of discrimination³⁹.

► Despite the equality provided for in articles 7 and 12, in a comparable context, articles 9 and 10 give each religious community the right to regulate the affairs of its affiliates, which provided fertile ground for discrimination against women and girls, and among women belonging to different religious communities. This fact has historically helped to promote sectarian identity. The constitutional role of religious sects was a major barrier to legal reform, especially when it comes to power relations within the family, and the status and role of women therein.

► The Lebanese Constitution shall not be included for the international conventions to which the State is committed; and shall not be prescribed in the Constitution itself on the location of international conventions in the legal pyramid neither on its prevalence over national law.

► The Lebanese Constitution only listed the first and second generation of human rights, and the constitutional amendment of 1989 did not refer to the addition of the third generation thereof.

► Broad terms such as «under the law» or «public legislation», which are stated in several articles of the Constitution (property, nationality, expression, public service, etc.) are mostly used. These expressions restrict the margin of granting and enjoying rights, as it allows for different interpretations for the State obligations and rights-based scope of work.

37 The opinion of the Ministry of Justice included in its observations on the report.

38 All Lebanese citizens are equal before the law, enjoy equal civil and political rights and abide by public duties and obligations without discrimination.

39 In March 2018, the Human Rights Committee raised these points in its concluded observations to the Lebanese State. For more information, please review the following website: https://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Countries.aspx?CountryCode=LBN&Lang=AR

► Finally, we cannot ignore the restrictions in laws' constitutional review. First, only few groups are allowed to conduct constitutional review, lodge appeals and not granting this right spontaneously to the constitutional council since it should receive an appeal. In addition, not granting this right to citizens is a right granted to a narrow group of persons under article 19 of the constitution.

► As for the second problematic, it is necessary to consider the constitutionality of the law within 15 days from the date of its publication in the official gazette, which means that the appeal against laws issued before the date of forming the Constitutional Council has been unable. Nevertheless, the most prominent problematic is the one related to the weakness in the powers granted to the Constitutional Council for the purpose of Constitution interpretation. Thus, the Constitutional Council has interpreted and determined the meaning of some of the provisions of the Constitution in the issued decisions on the supervision of the verification of the constitutionality of laws and the jurisprudence adopted in taking such decisions. However, the scarcity of appeals against the constitutionality of laws, due to the restriction of right to challenge within narrow limits, prohibited the Constitutional Council to deduce more jurisprudence that contributes to Constitution interpretation, and to clarify the ambiguity of its provisions⁴⁰.

Recommendations:

► The Lebanese State shall add to the Constitution a provision that defines and prohibits gender-based discrimination pursuant to Article 2 (a) of the Convention on the Elimination of All Forms of Discrimination against Women. It shall also add to the Constitution the provision that determines the location and the position of the interational conventions in the legal pyramid of the Lebanese State.

► Articles 9 and 10 of the Constitution shall be amended to ensure gender equality in the context of religious freedom and ethnic diversity.

► Establishment law of Constitutional Council shall be amended in light of experience according to the advanced readings provided by the judges of the Constitutional Council itself.

III. National mechanisms and policies related to women

The Office of Ministry of State for Women's Affairs was established in 2017 since it is the first time such Ministry is established⁴¹. Currently, the said Ministry makes efforts to promote women's status in Lebanon through a national equality strategy that is set up and aligned with the Sustainable Development Agenda; particularly in domains of the fifth goal. The Ministry presented many draft laws and organized several movements' campaigns, also cooperated, in this context, with many international civil society organizations, bodies and institutions. Hence, it works in cooperation with the ESCWA and the UNPFA on drafting the national strategy to combat violence against women in Lebanon, and treats the economic cost of the violence addressed against women and girls in Lebanon.

⁴⁰ For more information, please review the incidents of the workshop held by the Constitutional Council on "extending he powers of the Constitutional Council in Lebanon" in light of the project set up by Dr. Issam Suleiman, head of the Constitutional Council, issued by virtue of a document published in cooperation with the Conrad Edenor Company in 2017: http://www.cc.gov.lb/sites/default/files/Extension_des_attributions_ar.docx.pdf

⁴¹ <http://womenaffairs.gov.lb/ar>

As for the National Commission for Lebanese Women (NCLW), it is one of the national commissions concerned with women's affairs, and which enjoys advisory, coordination and executive functions. It is an institution affiliated to the Presidency of the Council of Ministers that was established in 1998⁴². Control points to coordinate the gender-based affairs exist within the Ministries and public administrations that work in coordination and communication with such commission.

In the Lebanese Council of Ministers, a session was held on February 2018, 15 during which a ministerial committee was formed by the presidency of the Prime Minister to discuss all matters related to women's affairs⁴³. The information on such ministerial committee are found to be inadequate; but, according to the actors of the Ministry of State For Women's Affairs, one of its functions is the coordination between the different Ministries and national mechanisms on Women's Affairs⁴⁴.

The Department of Women's Affairs of the Ministry of Social Affairs is one of the other commissions responsible for monitoring, promoting and protecting women's rights and conducts some activities to reduce the harm resulted from the gender-based violence, such as providing advice and shelter for survivors. Such department cooperates also with non-governmental organizations⁴⁵ for the purpose thereof.

In addition to that, the Committee on Women and Children established in the Lebanese Parliament conducts legislative process on Women and Children's issues⁴⁶.

Among national mechanisms, the Lebanese Parliament passed Law No. 62 dated 2016/11/3 which established the National Human Rights Commission. The Lebanese Government issued on May 2018⁴⁷, 21 a decree appointing the members of the Commission. In accordance with the law, the National Commission monitors the human rights situation by reviewing laws, decrees and administrative decisions, and investigates complaints of violations of human rights and issues periodic reports of their results. In times of war, the Commission would monitor violations of international humanitarian law and ensure accountability; it also has a crucial role to play in strengthening and monitoring human rights laws and standards.

Moreover, within the framework of national mechanisms and the obligations arising from the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, a permanent committee called the "Committee for the Prevention of Torture" was established within the National Human Rights Commission. This Committee works on protecting the rights of detained persons who are deprived of liberty, and enjoys an independent legal personality in all matters relating to torture and its prevention⁴⁸. It is worth mentioning that the Lebanese State had to establish a national mechanism for the prevention of torture one year after ratifying and joining the Protocol under Article 17 thereof. The Protocol gave the State party enough freedom to determine the type of preventive mechanism that is most appropriate to its national context⁴⁹.

42 The Commission works to ensure the integration of gender equality into the general policies and programs of the governmental departments and institutions. It supervises the implementation of the objectives of the international conventions and agreements adopted by Lebanon, develops a database that enables various stakeholders to monitor progress in achieving equality between women and men and promote cooperation and networking between public institutions and civil society institutions on gender issues and ways to incorporate the concept into public policies and development plans.

43 <http://www.presidency.gov.lb/Arabic/News/Pages/Details.aspx?nid=24682>

44 Declaration of the representative of the Ministry of State for Lebanese Women's Affairs in the consultative meeting held in Beirut on June 29, 2018 to the benefit of upgrading this report.

45 <http://www.socialaffairs.gov.lb/MSASubPage.aspx?parm=107&parentID=97>

46 <https://www.lp.gov.lb/ViewContentRecords.aspx?id=41>

47 <https://www.hrw.org/ar/news/2016/10/28/295832>

48 The Lebanese Parliament amended article 401 of the Lebanese Penal Code in considering the torture as a crime including actions of harmful sever mental or physical pain. This law entered into force in October 26, 2017 after being published in the official gazette.

49 Some actors confirm the importance of the committee and the existence of fears that could hinder its process. Therefore, it is necessary to take all procedures that ensure the independency of the committee and to assure the required resources to its process efficacy. For more information, please visit: <http://legal-agenda.com/article.php?id=3224>

The Higher Council for Childhood, established in 1994, is the national framework for the integration of the formal and civil sectors for childcare and development in accordance with international conventions, especially the Convention on the Rights of the Child. Currently, The Council is working with a number of United Nations agencies involved in setting up a national strategy to limit child marriage; especially girls. On 2012/12/12, the Lebanese Cabinet approved the National Strategy for the Protection of All Children from All Forms of Violence, Abuse and Neglect⁵⁰.

Finally, at the level of security and military forces, the General Directorate of the Internal Security Forces (ISF) established the «Human Rights Division» at the General Inspectorate. The Ministry of Defence also established in 2009 the Directorate of International Humanitarian Law and Human Rights to carry out several tasks, the most important of which is monitoring the integration of international humanitarian law conventions signed or ratified by the Lebanese State under military laws and regulations. As well as disseminating international humanitarian law in the military and advising military units to apply it.

National mechanisms and policies related to women:

The Commission set up the National Strategy for Women in Lebanon 2021-2011 by support of the UNPFA. In 2012, The Council of Ministers approved the strategy and requested from the concerned Ministries to implement it. The Commission worked on developing the National Action Plan 2019-2017 in order to implement the Strategy. The plan addressed several fields:

- ▶ Legislative, legal and regulatory field.
- ▶ Educational field.
- ▶ Health field, including reproductive health.
- ▶ Field of combating poverty among women.
- ▶ Economic field.
- ▶ Political participation and decision-making positions field.
- ▶ Field of combating violence against women and girls.
- ▶ Cultural and media field.
- ▶ Environmental field.
- ▶ Field of social institutions capacities building.
- ▶ Field of protection of women and girls in emergencies, armed conflicts, wars and natural disasters.
- ▶ Field of gender mainstreaming in all domains.

NCLW issued three reports on the implementation of the Strategy's Action Plan⁵¹, and developed the action plan related to the strategy, relevant reports and the development agenda by using a participatory process involving various governmental and non-governmental stakeholders.

In addition to this Strategy, the Lebanese Parliament prepared the National Action Plan for Human Rights in Lebanon (2019-2013) on 2012/12/10. However, to date of drafting this report, the General Assembly of the Parliament did not approve this plan and had not yet brought into force⁵².

In parallel, NCLW currently works with a number of relevant United Nations Agencies on the National Plan related to the International Security Council Resolution 1325 on Women, security and peace. It also works on the Plan by using a participatory process with various governmental stakeholders and a number of local and international organizations.

50 <http://www.atfalouna.gov.lb/Sections.aspx?zid=1&scode=SEC20&sid=20>

51 <http://nclw.org.lb/womens-strategy>

52 <https://www.lp.gov.lb/Resources/Files/ad4f0421-34dd-4700-a847-7f75e3ca1e45.pdf>

The plan priorities had been determined and being developed along through sectoral meetings and a consultative committee is involved in its formulation.

Several states among which are Arab States adopted the National Plan related to the Resolution 1325. Some of the lessons learned may be presented and which require the attention of all actors at the national level in the context of the National Plan process related to the Lebanese State.

The most prominent points are the following:

- ▶ Linkage in approach between the Humanitarian International Law and the International Human Rights Law in the context of action to the National Plan formulation.
- ▶ Using the Sustainable Development Agenda as an International umbrella in the present time in the context of action to peace and security agenda for women, especially the goals 15 and 16 thereof.
- ▶ Strengthen the linkage between the Security Council Resolution related to peace and security for women and the CEDAW along with the general recommendations therefrom, especially the general comment no. 30.
- ▶ Plan formulation from a participatory perspective through strengthening the multilateral partnership with the security sector institutions, judiciary, parliaments, non-governmental organizations and other frameworks concerned by the National Plan related to the resolution.
- ▶ Adoption of rights approach on Women and girls issues during conflicts⁵³.

In 2015, and 15 years after adopting the resolution 1325, global studies set up by the United Nations on the peace and security agenda confirmed that the resolution is one of the Human rights mandates⁵⁴. The resolution 1325 was entailed among the relevant resolutions that form what is called “Peace and Security Agenda for Women”, which includes the following resolutions:

Resolution 1820 issued in 2008, which urged taking suitable procedures to protect the civilian population, including women, of all forms of sexual violence. The resolution founded for the periodic reports mechanisms submitted by the UN Secretary-General to the Security Council.

Resolution 1888 issued in 2009, which established the office of the representative of the UN Secretary-General on sexual violence in conflict.

Resolution 1889 issued in 2009, which called for setting up strategies to increase the number of women in all peace processes stages, and called the UN Secretary-General to formulate indexes that measure the implementation on the resolution 1325.

Resolution 1960 issued in 2010, which is issued as an emphasis on the importance of monitoring, analyzing and notifying on the sexual violence related to conflicts; stressing on the engagements of the parties to the dispute to prevent sexual violence and combat it.

Resolution 2106 issued in 2013, which confirmed the imperative of women economic, social and political empowerment in the efforts aiming to prevent sexual violence in the armed conflicts and combat impunity for sexual violence crimes.

Resolution 2122 issued in 2013, which emphasized the accountability in implementing the resolution 1325 through a high – level review in 2015 to assess the progress accomplished at the national, regional and international level to implement the resolution 1325.

Resolution 2242 issued in 2015, which link the peace and security agenda for women with several global challenges such as violent extremism, climate change and the increase of refugees numbers.

53 <http://iknowpolitics.org/sites/default/files/leveraging-unscr-1325-national-action-plans-for-local-change.pdf>

54 <http://wps.unwomen.org>

In the recent years, many efforts have been made and important national policies and mechanisms have been adopted that have expressed an interest on gender in Lebanon. Nevertheless, some observations have been noted:

- ▶ The strategies, above mentioned, are being drafted without allocating human and financial resources that transform it into national plans, in addition to poor design of the indexes that measure the extent of progress in strategies implementation and accountability.
- ▶ Absence of coordination mechanism and identification of tasks and roles among different governmental institutions and ministries, which entails to redouble the efforts and waste of resources and that what makes it one of obvious tangles and intersections results among various councils' tasks such as: NCLW and State Secretariat Office for Lebanese Women.
- ▶ While Beijing Platform for Action stressed on the important role of the «gender liaison responsables» in ministries and some public administrations by unanimity of various actors on gender issues , this experience did not fall within the administrative structure of the ministries. In addition, it is no longer appropriate to undertake the task entrusted to these officers without developing their roles. In this connection, we note that the NCLW has worked in 2013 on a scoping study to this experience and is currently working on planning to develop its functioning.

Recommendations:

At the structural level, The Lebanese state shall give priority to strengthen the institutional capacities of the various national mechanisms on gender in Lebanon and grant it mandate, legal powers, decision-making authority and provide it with necessary financial, technical and human resources to work effectively. It is important to ensure the independence of the National Human Rights Commission, through full compliance with the principles relating the position of national institutions for the promotion and protection of human rights (Paris Principles) and the provision of resources to strengthen their work. Creating an institutional framework for the system of gender liaison responsables in competent ministries and public institutions and developing their capacities and resources are therefore important.

At the level of national strategies and policies, the national human rights plan shall be redrafted and adopted to ensure its alignment with the changes the country witnessed, as well as the national strategy to combat violence against women and a relevant obvious Action Plan to be implemented. In this context, setting up frameworks to follow up or enhance the implementation of relevant action plans, strategies and policies are therefore important, in addition to prioritize access to private national statements in all sectors that are classified on gender basis.

At the level of approaches, the Lebanese State shall merge the national strategies related to women and gender within a better objective and well-designed strategy to mainstream gender perspective in all policies, programmes and laws for the necessity to link any future strategies to the 2030 development agenda.

At the level of coordination between various national mechanisms, clear mechanisms shall be provided to support the coordination of efforts between various ministries and governmental and national institutions, in addition to organizing periodic meetings in accompanying the plans and coordinate the efforts. Hence, the participatory approach shall better promote the coordination and cooperation mechanisms as well as the exchange of experience.

At the level of resolution 1325, the Lebanese State shall approve the national plan related to the Security Council Resolution 1325, in addition to promote awareness and knowledge of different actors about the peace and security agenda for women.

Section 2. Fragmented equality

This section addresses the most prominent manifestations of gender-based discrimination in Lebanon. It would review the Lebanese Penal Code, Personal status Laws, Nationality laws and Law of Labor and social security. This section would include a summary paragraph on women participation in public life. Since the objective of the report is to use an advocacy instrument of various actors, analysis is limited to the most prominent gaps included in these titles and which are still considered a gender-based discrimination. Report's authors do not neglect the existence of dimensions and other aspects equally important that should be given greater visibility and which analysis shall be broaden. The need to use deep literature and researches that elaborated on women and girls rights in the Lebanese legislation⁵⁵ is therefore important.

IV. The Lebanese Penal Code

The Lebanese Penal Code has been adopted for more than 70 years. While several drafts and proposals to revise the law have been prepared and submitted to the Lebanese Parliament, however, to date, no comprehensive revision of the Penal Code has been conducted, and only some articles have been slightly amended.

Today, this code is not only considered a primary source of discrimination against women in the Lebanese Law System, but it also lacks adequate sanctions that may contribute to changing the stereotyped behaviour of discrimination against women. For example, the Lebanese Law System does not provide a definition for gender-based violence (GBV) whereas the only direct reference is found in Law No. 293; however, it is incomplete, as its scope is limited to family violence and crimes indicated by the Law on the Protection of Women and Family Members from Domestic Violence. In addition, the Penal Code did not adopt the definition provided in Rome Statute and did not list the "crimes of sexual violence"; but it addresses several crimes falling within the context of sexual violence, which excludes some crimes in the same context.

The importance of raising central problematic relating to integrating a gender, which is not a legal concept, in legislations is complex and raises several inquiries that should be discussed among all actors, among which:

► Who we mean with the protection through law: the individual or the society as a whole? As the Lebanese Penal Code, in its philosophy, stresses on the protection of the society rather than the individual; therefore, we should ask the following question: who is protected? It is an important question because it is reflected in the law approach and its overall structure as well as the concept of victim and perpetrator.

⁵⁵ NCLW, in partnership with the UNPFA, conducted a study on women rights in the Lebanese legislation. For more information, please visit the following link: <http://e-portal.nclw.org.lb/publications-details?pubID=1259>

- ▶ Is fragmentation of issues and working on special provisions, whether it is a priority or easy to be worked on, is the best approach to achieve and build-up advances? Or it is required to work on a comprehensive amendment? Which protection the approved protective laws may achieved in the recent years under the penal code, which has not been comprehensively amended? Is fragmentation a main factor leading to protection effective limitation?
- ▶ Is it possible to provide protection outside the context of a new definition of “crime” and its tools, instruments and results?
- ▶ Is it possible to provide protection outside the context of concepts definition and elaboration of definitions while simply enacting sanctions?
- ▶ Is it possible to provide protection, merely through provisions, outside the context of comprehensible protection mechanisms provision?
- ▶ Is it possible to provide protection outside the context of guarantee repairing and compensation of victims’ rights and ensure their access to justice?
- ▶ Is it possible to provide protection outside the context of law formulation according to the fundamental approaches and standards of human rights?
- ▶ Are we invited to think of a typical law on the protection of different forms of gender-based violence regardless the violence form? Such comprehensive typical law shall be applied at all levels of violence combat, i.e prevention, punishment and protection. In this case, what are the better action strategies? Is it by working under and by virtue of the Penal Code, or by adopting a comprehensive law on the protection of gender-based violence apart from the Penal Code? Thus, the existence of a specific law, lawful and constitutionally, on a specific matter has become an adopted strategy in the recent periods.

Posing these questions may help many actors working on discrimination and violence in the Lebanese Penal Code; especially that we witness a movement on the part of numerous legislators and national and governmental institutions, in addition to the efforts exercised by the civil society organizations to repeal and amend the discriminatory provisions therein.

Complying with general recommendations issued by the Committee on the Elimination of Discrimination against Women is therefore important. In particular, the recommendations no. 19 issued in 1992, no. 28 issued in 2010 and no. 35 issued in 2017, which clarify the obligations of States under Article 2 of CEDAW regarding the penal legislations that ensure the protection of women against gender-based violence⁵⁶.

A. Rape and indecent acts

Rape outside marriage is considered as a criminal offense punishable by at least five years of imprisonment. Rape definition, explicitly, excludes forced sexual intercourse within marriage (Articles 503 and 504). Article 506 stipulates that anyone who abuses his authority or official position to force sexual intercourse with a minor aged between 15 and 18 years old shall be punished by a period up to 15 years of imprisonment. In addition, article 507 imposes a sanction of imprisonment for a period not less than four years for anyone who forces another person, through violence or threats, to commit or endure an indecent act, and a minimum sentence of six years shall be applied if the victim is below the age of 15. Moreover, articles 519 ,510 ,509 and 520 prohibit any indecent or immoral acts against minors. Also, article 524 stipulates that anyone who seduces a woman or girl under the age of 21, with or without her consent, to satisfy the whims of others, is sentenced to a penalty and imprisonment of a period not less than one year.

⁵⁶ For more information, please visit: <https://www.ohchr.org/AR/HRBodies/CEDAW/Pages/Recommendations.aspx>

Several problematics may be contextualized as follows:

- ▶ While the parliament intentionally omitted in 2014 the expression “exacting matrimonial rights” in a civil law endorsed in 2014, namely Law on the Protection of Women and Other Family Members from Domestic Violence, article 503 is still valid. In fact, the deputies had intentionally dropped the sentence in a paragraph that was supposed to criminalize the act of “forced sexual intercourse” i.e. marital rape. Three years later, during the discussions on the amendment of article 522 of the same law, the Administration and Justice Committee members did not address article 503. Although the effects of article 522 has been abolished, legislators, by maintaining article 503 as it is without omitting the expression “other than his spouse”, reaffirm that marital rape is permitted and some people strongly argue that there is no rape within marriage⁵⁷.
- ▶ The Penal Code also fails to identify other forms of sexual violence such as sexual assault and abuse.
- ▶ In fact, it does not clearly define sexual assault as a violation of physical safety and sexual independence, although these acts can be punished under articles 510-507 as indecent assaults (since these articles highlight indecent violence assaults).
- ▶ A concern was also expressed over the legal obstacles related to the manner by which rules of evidence are applied, that undermine effective criminal investigations and prosecutions on rape acts. Generally, the State put the responsibility on the complainant for proving that she was a victim of a crime. According to the stipulation of the Law to Prevent and Punish Human Trafficking issued in 2011 that defined exploitation is therefore possible, but, in any case, the matter remains limited to the context of “human trafficking crime”.
- ▶ As for the exemption from punishment, article 522 was applicable to all crimes identified in articles 503 and 521 that exempt the offenders of these crimes from punishment by marrying the victim. While its effects were abolished for rape crimes in 2017, although they were maintained for articles 505 and 518⁵⁸. The attitude of women’s organizations on women and girls issues varies concerning the mentioned amendment. Some organizations considered it a protective legislative achievement for women, while others considered it as an incomplete achievement since the effects of article 522 were not fully abolished. The mentioned article was applicable for all crimes indicated between the articles 503 and 521⁵⁹. In this context, three deputies (who are Gilbert Zwein, Alain Aoun, and Nabil Nicolas) submitted on October 2017 ,30 a proposal to amend the articles from 505 until 519 and to repeal the article 518. The Minister of State for Women’s Affairs, Jean Ogassapian, submitted in February 2018 a draft law to amend the article 505 and to repeal the article 518.

The international context has widely developed in addressing rape that is now considered one of the worst sexual crimes. According to the Rome Statute, rape is considered a crime against humanity, “a war crime” or “a crime against humanity”; as being committed in the context of a widespread or systematic attack or being directed against any civilian population⁶⁰.

57 <http://www.kafa.org.lb/kafa-news/127/%D8%A7%D9%84%D9%85%D8%A7%D8%AF%D8%A9-522-%D9%84%D9%85-%D8%AA%D9%84%D8%BA-%D8%A8%D8%A7%D9%84%D9%83%D8%A7%D9%85%D9%84-the-remaining-effects-of>

58 Article 505 stipulates that the rape of a minor under the age of 15 is considered as a punishable offense (regardless of the minor’s consent). Anyone who raped a minor above the age of 15 and under the age of 18 shall be punished by imprisonment from two months to two years. Longer sentences of imprisonment shall be applied if the victim is under the age of 12 or between the age of 12 and 15. In case of an explicit marriage between them, the prosecution will be suspended. Also, article 518 stipulates that a man who seduces a virgin girl with the promise of marriage, shall be punished, if the act does not require a more severe punishment, with imprisonment for a period up to six months and a penalty payment up to 200,000 L.L or one of the two sanctions... In case of a valid marriage between them, the prosecution will be suspended.

59 After the prosecutors’ session held on August 16, 2018, KAFA(enough) Violence and Exploitation issued a statement in which it clarified the legislative flaw in the legislative amendment related to the repeal of article 522 of the Penal Code. For more information, please visit the organization website: <http://www.kafa.org.lb>

60 For more information, please review the Rome Statute: <https://www.icrc.org/ara/resources/documents/misc/6e7ec5.htm>

Recommendations:

At the legislative level, a definition of sexual violence shall be elaborated and included in the Lebanese Penal Code. Criminalization of marital rape by amending article 503 of the Penal Code and the repeal of the expression “other than his spouse” is therefore necessary. It is important to refer to the Handbook for legislation issued by the United Nations that emphasizes States’ commitment to “criminalize sexual assaults within a relationship” (i.e. marital rape). Whether this legislation stipulates that sexual assault’s provisions apply regardless of the nature of relationship between the perpetrator and the complainant or it indicates that “Marriage or any other relationship are no defence to any charge of sexual assault under legislation⁶¹”. At the same said level, the Lebanese Council of Ministers shall adopt the submitted legal proposals to repeal article 518 and to amend the article from 205 until 519 to ensure the real meaning of the approved amendments to the content of article 522 of the Lebanese Penal Code.

At the level of laws enforcement, elaboration of sexual assault concept definition is therefore important. It is necessary to set up a clear arrangement in how to legally deal with these accidents and the amendment of laws drafting which language does not include a blame, a revelation by blaming the victim of assault or to attribute responsibility upon the assault plaintiff, in order to prove the assault facts. Whereas, such responsibility shall be held by the judicial and security authorities.

B. Sexual harassment

The Lebanese Labour Law and Penal Code do not address sexual harassment. The Lebanese law did not define sexual harassment neither did it use this term. However, the Penal Code imposes punishment for criminal acts to which the description of sexual harassment applies, including articles 519 ,507 ,385, and 532. Although there is no direct provision that criminalize sexual harassment, penal judiciary elaborated several judicial files to which the description of sexual harassment applies and that are criminalized by the Penal Code.

The former Deputy, Ghassan Moukheiber, submitted a law proposal aiming at criminalizing sexual assault and racial discrimination. In addition, the former Minister of State for Women’s Affairs, Jean Ogassapian, submitted a draft law that was approved by the Cabinet in March 2017 and referred to the Parliament. A legislative committee was also formed to consider and discuss both provisions⁶².

Although it is important to discuss the problematic of sexual harassment and to formulate proposals and draft laws thereon, yet:

► The proposed legislations are still unable to protect the marginalized groups because they lose sight of the study, the discussion and the analysis of the sexual harassment since it is considered as one of the sexual violence forms and gender-based violence; i.e analysing it from the approach of power and control relationships.

⁶¹ OHCHR commentary on the Bill for the Protection of Women and Other Family Members against Domestic Violence, prepared by Nada Darwazeh , OHCHR.

⁶² In 2014, Member of Parliament, Ghassan Moukheiber, submitted an urgent law proposal that criminalizes sexual harassment and racial abuse. However, due to the prolonged political stalemate, the draft law has not been submitted to the Parliament until 2017. Parliamentarians first approved the law, but then withdrew after some deputies’ apprehension, for example, the possibility of misusing the law against employers. For more information, please visit: <http://website.aub.edu.lb/ifi/publications/Pages/policymemos.aspx>

► The proposed provisions lose sight of the study of the sexual harassment in light of power and fear-based labour relationships. Under economic conditions and the lack of employees' protection in Lebanon, sexual harassment could not be ignored in its relationship specifically with the "economic exploitation" against the vulnerable communities.

► The privacy of analysing sexual harassment against women refugees, especially Syrian refugees and the avoidance of disclosure, is therefore absent.

► The biggest problematic relies on the main linkage of sexual harassment to two various laws: the Penal Code and the Labour Law. Thus, it is impossible to discuss the issue without undertaking key amendments for both provisions, which only go beyond addressing sexual harassment. The Lebanese Penal Code still includes many inequitable and discriminatory articles against women and girls as being clarified in the second section of the report. The said report would also include a presentation of the most prominent problematics of the Labour Law in Lebanon. Therefore, it is necessary to address sexual harassment in light of both laws' remedy in all the provisions thereof. Finally, poor analysis of sexual harassment exists in its relationship in the context of stereotyped and discriminatory images of women in media, which helps in making women items and against whom the justified concepts of sexual violence are devoted.

The human rights-based planning means setting up policies based on "the right" instead of "the need". Thus, all human rights values and principles shall be integrated in the policies and plans. In 2003, The United Nations issued a statement on the mutual understanding of the human rights-based approach to ensure the coherence of all United Nations Agencies concerned with Human Rights Approach⁶³.

Recommendations:

At the legislative level, a law that criminalizes sexual harassment shall be adopted while taking into account the following factors⁶⁴:

- Consider harassment as a form of violence and gender-based discrimination.
- Consider harassment in public places, educational institutions and workplaces as a factor that affects the daily life of women.
- Address the exclusion of specific groups from Labour Law provisions (farmers and domestic workers).
- Give attention to racial discrimination issue as it intersects with sexual harassment, especially for migrant workers.

At the level of interventions, it is necessary to work closely with Internal Security Forces officers and train them to work using the human rights-based approaches, especially women's rights, in addition to the cooperation with the civil society in order to draft the policies related to sexual harassment.

► Dealing with sexual harassment prevention and the need for attempting to incorporate such policies and procedures, firstly, in the civil society institutions before being transferred to others such as the public space. Hence, raising awareness to break individual and societal silence on sexual harassment is therefore important.

⁶³ <http://hrbportal.org/the-human-rights-based-approach-to-development-cooperation-towards-a-common-understanding-among-un-agencies>

⁶⁴ Policies Brief on Examining Sexual Harassment Draft Laws in Lebanon: Women's Equal Right to Public Space, Mona Khneisser, Issam Fares Institute for Public Policies at the American University of Beirut, 2018. For more information, please review the following link: <http://website.aub.edu.lb/ifi/publications/Pages/policymemos.aspx>

C. Honour crimes

Historically, the Lebanese Law System has faced leniency when it comes to honour crimes as article 562 of the Penal Code exempted the perpetrator of honour crimes from punishment. Later, exculpating was substituted by mitigating excuses with the text of article 562 of the Penal Code, which stipulated, “a man who surprises his spouse or one of his female relatives in the act of adultery or illegal intercourse shall benefit from the pardonable excuse”. However, in 2011, by virtue of a legislative proposal submitted by the deputies Elie Keyrouz, Sami El Jamyel and Strida JaeJae, article 562 of the penal code⁶⁵ was repealed.

On July 2016 ,14, the Beirut Criminal Court, revived article 562 in accordance with the provisions of article 252 of the penal code. The said article stipulates that “a perpetrator who commits an offense as a result of extreme rage caused by dangerous and wrongful action committed by the victim shall benefit from mitigating excuses⁶⁶”. Thereupon, on February 2018 ,5, the former deputy, Elie Keyrouz, submitted a legislative proposal aiming to the amendment of article 252 of the penal code, in which provisions ‘anyone who killed, injured, beat or abused his wife, ex-wife, sister, daughter, mother or any woman for whom he acts as a legal guardian or custodian’ shall be excluded. The amendment of article 548 of the penal code was also proposed in order to strengthen sanctions for murder, hurt, abuse or beating crimes perpetrated against women in the Lebanese society.

Recommendations:

At the legislative level, the legislative proposal to amend the articles from 252 until 548 of the Lebanese Penal Code shall be adopted.

At the level of laws enforcement, It is necessary to intensify what helps in bringing the domestic violence crimes mostly justified by “honour crimes” out of the mitigating excuses’ circuit, and what increases penalties over all domestic violence gender-based crimes.

D. Adultery and sexual relations outside marriage

The Lebanese law does not criminalize consensual sexual relationships between adult men and women outside marriage. As for adultery, it was addressed by the Lebanese legislature in section 5 of the Penal Code, in articles 488 ,487 and 489. The articles discriminated between women and men in terms of sanctions, offense conditions and means of evidence. In 2014, Law No. 293 on the Protection of Women and Other Family Members from Domestic Violence was enacted and amended these three articles by virtue of paragraph 6, Article 3 of its provisions.

In practice, if adultery as a criminal offense is maintained, even when equally applied for both women and men, women will still face severe weaknesses and violations of their human rights to dignity, privacy and equality⁶⁷. Several human rights and women’s organizations in Lebanon therefore call for the prevention of adultery criminalization and its restriction to the circle of marriage contract and the personal status laws system, as a ground for the dissolution of marriage.

⁶⁵ Article 562 was repealed in the discourse of the nation, Ezza Sharara Baydoun, legal agenda on 18.10.2011.

⁶⁶ <http://74.220.207.224/article.php?id=1704&folder=articles&lang=ar>

⁶⁷ OHCHR commentary on the bill for the Protection of Women and Other Family Members against Domestic Violence. Prepared by Nada Darwazeh , OHCHR.

In 2016, Deputy Sami El Jemayel submitted a law proposal to abolish adultery provisions from the Lebanese Penal Code⁶⁸. However, Article 3 of Law No. 2014/293 amending project approved by the Cabinet on August 2017 ,3, annulled Articles 488 ,487 and 489 related to adultery provisions from the third article thereof.

Recommendations:

At the legislative level, adultery criminalization from the Lebanese Penal Code provisions was abolished by repealing Articles 488 ,487 and 489.

E. Abortion

Articles from 539 until 546 of the Lebanese Penal Code address abortion performed by pregnant woman herself or by someone else with or without her consent, causing abortion and selling, promoting or facilitating the use of abortion means. The sanctions are reinforced if the actor is a doctor, surgeon, pharmacist or one of their employees, and mitigated when abortion is practiced for honour protection reasons⁶⁹.

The Penal Code allows therapeutic abortion under specific conditions and the Presidential Decree No.13187 of year 1969 permits abortion to be performed when this is the only means of saving a pregnant woman whose life is placed in great danger. Abortion is part of the circle related to the sexual and reproductive health on which the Ministry of Public Health and Reproductive/ Health Unit at the Ministry of Social Affairs are working. However, according to several human rights and women's organizations, the absolute prohibition of abortion and its consideration as a crime in all circumstances contradict the principle of woman freedom to manage her life and disregard her own will with regards to her body, her personal responsibility and her decision in the reproductive process. One of the driving forces behind abortion legalization claim lies in:

- ▶ Abortion prohibition does not reduce the prevalence of this practice but rather incites woman to undergo clandestine abortion practiced by unskilled personnel using unsafe methods that threaten her safety and may cause her death.
- ▶ According to the World Health Organization⁷⁰, the application of restrictive laws, poor availability of services and high costs are considered among the main reasons for unsafe abortion.
- ▶ Disregarding access to reproductive health, in emergencies, may have dangerous consequences such as maternal and infant mortality, unwanted pregnancies and unsafe abortions. In addition to rape cases women and girls faced in wars and conflicts that are considered one of the practiced weapons because of which unwanted pregnancy cases are resulted.

68 <https://www.samygemayel.com/%D8%A5%D9%84%D8%BA%D8%A7%D8%A1-%D8%AA%D8%AC%D8%B1%D9%8A%D9%85-%D8%A7%D9%84%D8%B2%D9%86%D8%A7>

69 Every person who causes or facilitates abortion, or promotes thereby, or sells purchases or owns abortion means shall be imprisoned and subject to a penalty that varies according to the case: If a pregnant woman herself performed abortion, she shall be imprisoned from a period of 6 months up to three years. However, if a woman for honour protection reasons performed abortion, she shall benefit from mitigating excuses. Who causes abortion or tries to practice it, with the pregnant woman consent, shall be imprisoned for a period starting from one year up to three years, and in case a pregnant woman was dead due to induced abortion, penalty shall be increased up to hard labour from four up to seven years. If it is proven that the abortion perpetrator used the most dangerous means of abortion from which the pregnant woman approved on, penalty shall be more increased from five up to ten years. If someone causes abortion to a pregnant woman by force, penalty exceeds hard labour, and in case she died due to the forced abortion, penalty redoubles to become ten years at least. If someone due to honour protection reasons performed abortion for one of his female relatives, the perpetrator shall be sentenced from six months up to two years of imprisonment; and in some cases penalty does not exceed six months.

70 <http://www.who.int/mediacentre/factsheets/fs388/ar/>

On the other hand, dissenting opinions emphasize woman's discretion of her body and the way of managing her personal life. However, this saying shall not be absolutely adopted; but to find specific controls that prevent woman from discretion of her body especially when choosing between her personal freedom, on a preliminary basis, and the right to life of the foetus, individually, and not to get rid of it for personal whims. In case the provision was amended, it is imperative to taken seriously not to unleash the floodgates of abortion⁷¹. Thus, woman's stituation and the danger that threatens her and her unborn child's health shall be taken into account in abortion legalization, in condition that she obtains an authorization from the specialized doctor⁷².

The Committee on the Elimination of Discrimination against Women called, in its concluded observations submitted to the Lebanese State in 2015, for the non-criminalization of abortion in Lebanon in 2015, at least in the situations where pregnancy poses a threat to the mother's life or health and in cases of rape, incest and severe fetal impairment.

Recommendations:

At the legislative level, the provisions regulating abortion aligned with the laws adopted by some of the states, including Tunisia for example, shall be adopted.

At the level of policies, it is required to develop a national strategy related to sexual and reproductive rights according to human rights approaches and among its objectives social values supporting sexual and reproductive rights shall be upgraded.

At the level of services, access to sexual and reproductive health services and improving its quality shall be promoted, especially in underserved regions. It is necessary to mainstream knowledge about the methods of preventing unwanted pregnancy among actors such as adopting family planning methods, and to provide safe abortion and post-abortion care services. To raise awareness on sexual and reproductive health is therefore important, especially among Syrian refugees as being the most vulnerable women. As well as to strengthen the capacities of service providers to better response to sexual and reproductive health rights' issues.

At the level of raising awareness on sexual and reproductive rights, it is important to introduce age-appropriate cutural education on sexual and reproductive health rights at the primary, intermediate and secondary levels of education; as well as among various communities and groups.

F. Article 534 of the Lebanese Penal Code

International mechanisms on the protection of human rights attaches great importance to the marginalized groups' issues in Lebanon, which face discrimination in the Lebanese law that criminalizes homosexuality through social stigmatization and poor solidarity. The issue states in article 534 of the penal code was raised in the list of questions, or the concluded observations submitted to Lebanon by the concerned committee on human rights in 2018 and by Human Rights Council in 2015⁷³.

71 Opinion of the Ministry of Justice in Lebanon included in its written observations on the report.

72 Opinion of the NCLW's representative included in her written observations on the report.

73 It is the community of lesbian, gay, bisexual and transgender (LGBT) persons. This wild term expresses the common cultures, the political and social movements and the organizations that support persons of sexual orientation and identities and atypical gender expression.

In Lebanon, marginalized groups are experienced by negative practices, harassments and abuses; such as being subject to anal examinations when being arrested. In 2012, the medical association and the Ministry of Justice issued a decision banning the use of forced anal examinations. However, opinions concerning this issue are various, some emphasizes that these practices are happening while others preclude it, but a third opinion considers its banning, absolutely, is unrealistic for the necessities of being invoked in some investigations, such as rape crimes or sexual violence⁷⁴.

In 2013, the Lebanese Psychiatric Association issued a statement emphasizing that homosexuality is not a mental disorder and called for repealing article 534⁷⁵ two years later (in 2015).

Article 534 stipulates “Every sexual relation against nature shall be punishable by imprisonment up to one year”. Under such article, homosexuals are criminalized after classifying homosexuality as a sexual relation against nature.

Many courts are still stressing on issuing judgments according to article 534, while other courts confine itself with custody. A third judicial trend expresses a totally different stance which is decriminalization according to article 534. A series of judgments issued by courts support the stance stating not to use this article to sue homosexual behavior between consenting adults. In 2014, a judicial judgement was rendered on not applying this judgment on consenting sex because of the ambiguity of the expression “against nature⁷⁶” concept. In 2017, another judge announced in the judicial judgment, which states that homosexuals have the right to humanitarian and intimate relations with whom they want without any interference or discrimination in terms of their sexual orientation, as it is the case with others. In his judgment, the judge relied on article 183 of the penal code, which states that the action practiced in the framework of exercise of the right without a mistreatment shall not be considered a crime⁷⁷. After the issuance of four trial judgments, the Appeal Court of Mount Lebanon announced that homosexuality is not a crime. On 12.07.2018, the decision was rendered announcing the enshrinement of a different judiciary that started with the previous four judgments⁷⁸. Three factors have contributed in legal analysis in this different judiciary⁷⁹, are:

- ▶ The judge retains his interpretative authority. The judgments refer to the clear intention of the judges to go beyond facts and to propose a different legal interpretation of article 534 by retaining their authority of article interpretation.
- ▶ Nature concept and its change according to the development of concepts, traditions and beliefs not relating to religious or social rules in addition to its connection with individual freedoms.
- ▶ Adoption of jurisprudence as a strategy to repeal article 534⁸⁰.

Specific laws that protect marginalized groups from hate crimes or gender-based violence or discrimination are absent. In addition, specific legal protection or acknowledgment of transgender women and men does not exist. However, in 2016, the Appeal Court in Lebanon granted a transgender man the right to change his legal status in the civil register⁸¹.

74 These opinions have emerged within the course of action on the report with various actors such as governmental and non-governmental institutions.

75 Human Rights Watch: “Lebanon is inching even closer to decriminalize homosexual behaviour”.(2017)

76 <https://www.indexoncensorship.org/2014/04/gay-rights-lebanon-good-bad-ugly>

77 Human Rights Watch: “Lebanon is inching even closer to decriminalize homosexual behaviour”. February 2, 2017. Available at the following link: <https://www.hrw.org/news/2017/02/02/lebanon-edges-closer-decriminalizing-same-sex-conduct>

78 For more information on judgment on the merits, please review the article stated in the legal agenda on 13.07.2018, review the following link: <http://legal-agenda.com/article.php?id=4648>

79 This analysis refers to the legal agenda, which is a not-for-profit, non-governmental association having headquarters in Beirut and focuses on various rightful issues.

80 <http://74.220.207.224/article.php?id=1582&folder=articles&lang=ar>

81 “The Lebanese judge grants a man the right to change his gender” Daily Star, November 5, 2016. Available at the following link: <http://www.dailystar.com.lb/News/Lebanon-News/2016/Jan-15/332090-lebanese-judge-grants-trans-man-right-to-change-gender.ashx>

We finally mention that Islamic and Christian Religious Institutions are closing in on the marginalized groups and trying in all means to prevent its members from practicing their activities as it happened in 2017 with a number of non-governmental organizations working on such issues.

Forced anal examinations are one of the cruel, inhuman and degrading treatment that may be lived up to torture, which is medically unjustified and may not be totally approved on. It is considered a breach of the Convention against Torture and the International Covenant related to the political and civil rights⁸².

United Nations Committee against Torture.

Recommendations:

At the legislative level, article 534 of the Lebanese Penal Code shall be repealed in addition to the adoption of laws protecting individuals from any discrimination based on their gender identity and sexual orientation.

At the strategic level, the Lebanese State shall guarantee the respect of the marginalized groups' practice of cultural activities and to combat hate speech against them. In addition, the State shall guarantee the respect of all civil rights of the marginalized groups such as civil registers issues.

At the level of services, activation of various and comprehensive health services for the individuals of these groups is therefore important. It is also necessary to enhance the capacities of the marginalized groups to request legal and health services.

V. Personal status laws

Equality in family is the base for social equality. Lebanon still has multiple legislations and courts addressing personal status cases, which leads to a collection of problematics;

► There are 15 personal status laws applied by 18 different recognized religious sects in the country. Women and girls are subject to different discriminatory provisions by virtue of the different personal status laws because there is no civil law in Lebanon that regulates personal status matters. These laws tackle several issues and particulars. In addition, legislature is not the only source of discrimination against women; there are a number of common issues in the entire personal status system in Lebanon.

► While the right of different religions to promulgate their own personal status laws is guaranteed in the Constitution, there is another constitutional principle, namely the principle of freedom of belief enshrined in Article 9 and the Preamble of the Constitution. This principle stipulates that despite the right of different religious sects to have their own personal status laws, it does not enjoy an exclusive right to organize the personal affairs of individuals. However, in practice, the Lebanese State intervention can be described as "indulgent" in dealing with religious sects as it adopts a legal neutrality approach while respecting the rights of the authorities entrusted with the personal status systems as stipulated in Article 9 of the Constitution.

82 <https://www.hrw.org/ar/report/2016/07/12/293704>

This contributes to strengthening the power of religious sects over their affiliates and aggravating the vertical fracture of several social groups. Moreover, it is true that articles 9 and 10 of the Lebanese Constitution have given the religious institutions such powers in condition that ‘it does not breach the public order’; however, the meaning of public order and the limits of the description introduced inside or outside it has not been yet determined.

► It is clear that the civil space is rejected, as legislation drafting takes into account religious authorities addressing aspects related to family and women issues. The controversy surrounding the enactment of the law on protection from domestic violence illustrates well this point. Law No. 293 states that if the provisions are contradictory with the personal status laws, priority is given to the latter. This means that the problematic related to the recognition of violence against women in religious law is being neglected. It should be noted that the Law on Protection of Women and Other Family Members from Domestic Violence did not include any item explicitly addressing how to settle conflicts that may emerge between civil courts rulings on domestic violence and religious personal status courts judgments. Another tangible example on how sects are taken into consideration is the non-criminalization of marital rape. Those institutions never hesitated to strongly oppose the struggle of human rights and women’s organizations to acknowledge the human rights of women/girls and protect them against all forms of gender-based violence.

► The second dimension is the State neutrality represented by the non-ratification of laws in the Parliament. Spiritual courts are completely independent from the State and they have their own hierarchy and authorities. Although the Sharia courts are linked to the Council of Ministers, they enjoy a wide autonomy. In fact, this linkage is limited to financial cooperation only, as staff members receive their salaries and financial allowances from the relevant ministry. While the General Authority of the Court of Cassation can only act as the article 95 of the Code of Civil Procedure states. The said article stipulates the following: “It is up to the General Authority of the Court of Cassation held by determined quorum to consider the Judiciary Organization Act to object to a concluded decision issued by a religious or doctrinal court for not having the jurisdiction of such court or for breaching key draftings related to the public order...” The General Authority of the Court of Cassation shall consider the concluded decisions issued by the religious courts or druse doctrinal courts in case these decisions are breached in key draftings related to the public order, and shall not oversight the conformity of religious laws with the public order provisions. Moreover, The General Authority of the Court of Cassation cannot consider the spiritual courts’ decisions.

► Interaction approaches with personal status issues vary among the civil society organizations themselves. Thus, two approaches exist: the first one seeks a comprehensive structural amendment; while the other one seeks the amendment of discriminatory provisions and their removal from among the religious laws themselves.

Finally, discrimination against women in the personal status can be described as a systematic pattern through the persistence of the Lebanese State’s reservation on Article 16 of CEDAW.

A. Civil marriage

Civil marriage in Lebanon is subject to the personal status law of each religious sect. Marriage before religious courts is prevailing pattern among Lebanese families. However, the State recognizes civil marriage concluded abroad, and any disputes arising out of the contract are addressed in accordance with the laws of the country in which the marriage was concluded. The Lebanese law allows the registration of marriage contracts concluded outside Lebanese territories. If marriage is celebrated in accordance with the procedures adopted in the foreign country, the marriage is valid and effective in Lebanon and can be registered in the civil

status departments without being subject to any religious procedures, but rather to regular administrative procedures only. In that case, the marriage is fully effective and governed by the laws of the country where it was concluded (Article 25 of Decision 60LR year 1936).

Decree 60LR year 1936 organizes and recognizes the different confessions and give them jurisdiction over issues related to their personal status. It also recognizes individuals who do not belong to sects and guarantees their equal rights with individuals who belong to sects. This Decision gives individuals who do not belong to sects the right to choose the civil law they want to refer to.

It should be noted that many proposals and draft laws aim to enact civil marriage in Lebanon, the latest of which is a proposal set up by the Bar Association in Beirut for optional civil marriage in 2017.

In 2013, the former Interior Minister, Marwan Charbel, signed the first civil marriage contract concluded in Lebanon by virtue of a decree issued in 1936 by the French mandate, after removing sects from civil registry records (Lebanese citizens were allowed, after 2011, to remove their sect). Subsequently, few exceptional cases of contracts registered in Lebanon were approved⁸³. However, the Lebanese Government lately refused to register such marriages when the Interior Minister, Nohad Machnouk issued, in 2015, a decision to refer civil marriage contracts to civil courts to consider the legality of these contracts and decide on their registration. As a result, the registration of dozens of contracts was suspended.

B. Age of marriage

The minimum age of marriage varies between religious communities. However, all religious sects allow marriage for girls under the age of 18 if the girl's guardian gives consent.

According to a report issued by UNICEF in 6 ,2016 per cent of Lebanese women aged between 20 and 24 were married by the age of 18⁸⁴. Child marriage seems to be increasing among Syrian refugees. A study conducted by UNFPA in 2017 found that 24 per cent of the refugee girls who are aged between 15 and 17 are married⁸⁵.

Therefore, the Lebanese Parliament, through its competent committees, discussed three legislative proposals on child marriage:

- ▶ A legislative proposal on organizing minors' marriage prepared by the National Commission for Lebanese Women (NCLW) and submitted by the former Deputy, Ghassan Moukheiber.
- ▶ A legislative proposal on protecting children from early marriage prepared by Lebanese Democratic Women's Gathering (RDLF)⁸⁶ and submitted by the former Deputy Elie Keyrouz after introducing a few amendments. However, the proposal was refused by a large number of deputies who took into account religious authorities and invoked the Constitution to claim its unconstitutionality. However, a review of the examination given by the Committee of Legislation and Consultations at the Ministry of Justice strongly reinforces the position of women's organizations supporting this proposal. The whole debate on personal status issues can now be guided by the following observation:

83 <http://english.al-akhbar.com/node/18204>

84 https://www.unicef.org/publications/files/UNICEF_SOWC_2016.pdf

85 <https://www.unfpa.org/news/new-study-finds-child-marriage-rising-among-most-vulnerable-syrian-refugees>

86 <http://www.rdlfwomen.org/>

“The Constitution Preamble and Article 9 can be matched by setting a minimum age of marriage according to international instruments to which Lebanon is a party. The opposite expressly violates the principles set forth in the Preamble that the State had committed to embody in all fields and areas. Those principles are related to the Lebanese public order, which has a constitutional value”.

▶ The third legislative proposal was submitted by “KAFI (enough) Violence and Exploitation” through a draft law adopted by the Ministry of Human Rights⁸⁷.

The Committee of Legislation and Consultations examined the three proposals and established a subsidiary committee that worked on merging both legislative proposals and the content of the preliminary draft adopted by the Ministry of Human Rights. The subsidiary committee concluded with a new version that introduced an effective mechanism to protect minor girls from early marriage. It allows early marriage for girls aged above 16 in exceptional cases only and under the supervision of juvenile judge whose decision should be in line with the best interest of the minor, and that he listens to the concerned persons as to be based on medical, social and psychological expert opinions.

Until the date of drafting this report, the matter is still in the custody of the Lebanese Parliament, and there is not any updates due to the absence of parliamentary committees’ formation after the recent parliamentary election that took place in May 2018. In addition to the absence of a detailed reading of the drafting achieved by the subsidiary committee on the part of the civil organizations that are working on the issue of legislation on protection against child marriage.

C. Rights and responsibilities

In all Islamic sects, a man has the right to expect his wife to do the following:

- ▶ Being obeyed in all permitted things;
- ▶ Residing with him at the same dwelling;
- ▶ Moving with him wherever he wants to reside, unless otherwise stipulated in the marriage contract.

A woman has the right to expect her husband to do the following:

- ▶ Dowry entitlements;
- ▶ Adequate expenses;
- ▶ Kind and proper treatment;
- ▶ Securing a decent and legal residence where no one of his parents or relatives lives without her consent.

As for the common rights and obligations owed by both husband and wife, one to another, include the right to enjoy each other and the right to inherit each other.

For all Christian sects, both spouses should be committed to shared lives, cooperation, unity, common residence, mutual respect and trust, as well as raising children with religious and moral values.

87 <https://www.hrw.org/ar/news/2017/04/12/302215>

However, wife's duties vary between the different sects and include:

- ▶ Obtaining her husband's surname (Armenian Orthodox, Assyrian Orthodox);
- ▶ Supporting her husband if she is wealthy and he does not have enough resources to afford the expenses (Greek Orthodox, Syriac Orthodox, Assyrian Orthodox, and Evangelical);
- ▶ Not to exercise any work without her husband's consent (Armenian Orthodox).

For Orthodox, the husband is obliged to ensure the expenditures; while for Armenian Orthodox, wives should share a percentage in the house expenditures.

While obligations differ between sects, all laws are dominated by privileges that characterize the patriarchal system. As there are no corresponding obligations for these privileges, woman's rights rather become a grant from the husband and not as her right. Devoting the system of male privileges in law weaken women and leaves them unable to resist violence acts against them⁸⁸.

D. Divorce/ Dissolution of the marriage/ Nullity of marriage

Muslim husbands have the right to end marriage unilaterally, without assigning any reason and without recourse to the court. Sunni woman can ask to be separated from her husband for several reasons. Violence against women is not considered as a reason to seek separation. In cases where a woman asks for separation due to violence against her, she should prove that the assault exceeded the husband's legal authority to discipline his wife according to the relevant personal status law. Another option is available for Sunni woman and consists of returning her dowry and waiving any financial rights, in exchange for the husband acceptance to divorce (this is known as Khul'a or quittance). In Jaafari sect, woman is not allowed to ask for divorce and the judge's role is limited to issuing a divorce certificate based on either spouses' consensus or husband's request of divorce.

For Druze sect, the husband has the absolute right to terminate the marriage unilaterally, without assigning any reason, but he should resort to the court. Nevertheless, if the judge finds that the husband divorced his wife without any legitimate reason, the wife may be compensated. The contract can also be terminated if the spouses mutually consent to a divorce for specific reasons (illness, imprisonment and abandonment), among which violence is not a valid reason⁸⁹.

It is very difficult for Christian spouses to end marriage, even with their consent. Only a narrow range of reasons is applied to end marriage by dissolution. The provisions vary between Catholic, Orthodox and Evangelical sects. However, some amendments were introduced, including an amendment by the Pope of Rome, the Pontiff, dated 2015/12/07, amending some Church laws, especially marriage annulment laws for Catholic sects. In the cases of dissolution of the marriage in Catholic sect, violence is not considered as a legal reason for marriage dissolution and is only considered as a ground for marriage annulment when it is related to a mental disability that the husband has been suffering from before marriage, which made him unable to perform basic marital duties. As relevant jurisprudence recently developed, marriage may be now annulled once it is proven that one of the spouses is unable to bear the burdens of marriage (a mandatory psychological test should be conducted for both spouses) and domestic violence is now considered within the circle of inability to bear the burdens of marriage. In the records of different spiritual courts, there is a long list of marriage annulment rulings based on physical, economic or other forms of violence or even in case of emotional incompatibility.

⁸⁸ A study of the Lebanese Women Democratic Gathering on legal violence in Lebanon prepared by lawyers Zalzal, Khalifa and Ibrahim,
⁸⁹ Ibid.

E. Guardianship and child custody

For Islamic communities, the father has right to custody of children even after divorce. Custody is not limited to the father. In case of his absence, it is given to the grandfather or to a trustee chosen by the father or the legal guardian who is appointed by the court.

For Christian sects, except for Armenian Orthodox sect, custody is only given to the father himself, unless he assigns it to the mother, or in case it was withdrawn from the father and granted to the mother.

Guardianship provisions differ between sects, and between males and females in the same sect. Many women do not ask for divorce (even if they experienced harmful relationships) due to the fear of losing the custody of their children⁹⁰. For example, custody rights of Muslim women are confiscated as soon as they remarry⁹¹. For different sects, some judges recently started to take decisions regarding the custody based on the better interest of the child. In case the child experienced one of violence types stipulated in the law no. 2002/422, the mother has the right to resort to the juvenile judge and submit a petition on the protection of her children. In addition, if the judge shows the fact of practicing violence on children (verbal, physical, psychological, sexual or negligence), he shall issue a decision protecting children and delivering them to the custody of their mother. Judge's decision will be implemented even if the children were not in their age of custody. If such decision is not in consensus with the personal status law or contradicts with the decision taken by the religious court, it is noted, however, that women problems transcends the provisions, since parallel problematics related to the provisions implementation issued on custody are highlighted. The following schedule clarifies the age of custody for different Lebanese sects:

SECT	LAW
Catholics	The law did not provide for the age of custody, rather it stipulated the right of woman to breastfeed until the child reached the age of 2 years. Then, the court examines and determines the child best interest.
Armenian Orthodox	The age of custody is 7 years for males and 9 years for females.
Syriac Orthodox and Assyrians	The Evangelical personal status law raised in 2006 the age of custody from 7 to 12 for both males and females.
Greek Orthodox	The age of custody was raised from 7 to 14 years old for boys and from 9 to 15 years old for girls.
Druze	The age of custody was raised to 12 years old for boys and 14 years old for girls, by virtue of amendments approved in 2017.
Sunni	The age of custody was raised from 7 years old for males and 9 years old for females to 12 years old for both males and females, by virtue of amendments issued by the High Islamic Council according to the family system provisions (article 15) in 2011.
Shiite	The mother is granted the right to custody her boys until they reach the age of 2 and her girls until they reach 7 years old.

⁹⁰ Human Rights Watch: Unequal and unprotected, women rights in the personal status laws (2015) page 7.

⁹¹ NCLW, implementation and announcement of Beijing Action Plan +20

F. Inheritance

In the Hanafi School, the general rule is that male agnates disinherit relatives that are more distant; otherwise females who only have reserved shares. The male inherits the share of two females or the female inherits half of the male share.

In Jaafari law, the distribution of heritage is based on specific order where an advanced rank supersedes the following one. Heritage cannot be transferred from a rank to another unless there is no one in the advanced rank. If ranks are equal, the rule applied is that a male receives twice the share of a female.

For Druze, the inheritance laws of Hanafi School are applied i.e. those applied to Sunni Muslims. In 2017, amendments were introduced to Druze laws, including an important amendment concerning the daughter of a decedent. The amendments state that if the decedent has no other male or female children, the daughter is considered as residuary by herself and inherits the entire estate that is left after the owners of hypotheses. If there are several daughters, shares are equally distributed between them.

Non-Muhammadens are subject to the law issued in 1959, for Christian sects that provides for full equality between males and females in both inheritance right and shares.

Although heritage rules are clear, women are denied inheritance in many cases, which adds a new norm to the social customs that force women to waive their ownership over properties so that they are not transferred beyond the family. Properties ownerships (lands, houses, etc....) are mainly registered on behalf of men under the pretext of preserving wealth within the family. Limited opportunities for women to receive their shares of inherited lands hinder their ability to have access to loans and subsequently, their investment capacities. In addition, personal status laws do not recognize the contribution of wives to marriage costs and burdens, including the value of the unpaid domestic work; neither did they recognize the concept of “marital property”, which deprives women from a share of the family properties in case of divorce⁹².

Recommendations:

At the legislative level, the Lebanese state shall enact an optional civil personal status law that guarantees the equal rights of women with men in accordance with Lebanon’s international commitments. In addition to the amendment of article 95 of the Lebanese Code of Civil Procedure to convey for the General Authority of the Court of Cassation the power to consider established rulings issued by religious courts. It is important that Lebanon fulfils its obligations to protect children, especially girls, as stipulated in international conventions, such as CEDAW and the Convention on the Rights of the Child; and the adoption of a law to determine the age of marriage by 18 years old as a minimum age of marriage for girls and boys.

At the procedural level, to bind all religious sects that have not codified their laws yet to do so, and submit them to the parliament for approval after reviewing their conformity with the Lebanese Constitution and Lebanon’s International Commitment. In addition, the State shall develop oversight mechanisms for religious courts procedures to guarantee that its provisions do not entail any form of discrimination and it is in accordance with the Lebanese Constitution and Lebanon’s International Commitment. Moreover, instructing implementation departments to accelerate and facilitate the provisions implementation issued on the personal status issues is therefore necessary.

92 Human Rights Watch, *Unequal and Unprotected: Women’s Rights under Lebanese Personal Status Laws*, 2015.

At the level of services, it is important to provide legal representation mechanisms of insolvent parties regarding all personal status issues, to establish hotlines and to provide social and legal advisory services in civil and religious courts.

VI. Nationality law

Lebanon is neither a party to both the 1954 Convention relating to the Status of Stateless Persons nor the 1961 Convention on the Reduction of Statelessness.

Article 1 of the Nationality Law states the following:

Is considered Lebanese:

- ▶ Every person born of a Lebanese father.
- ▶ Every person born in the Greater Lebanon territory and did not acquire a foreign nationality, upon birth, by affiliation.
- ▶ Every person born in the Greater Lebanon territory from unknown parents or parents of unknown nationality.

Article 2 states that Lebanese mother cannot grant Lebanese nationality to her children unless they are illegitimate children.

There is discrimination between a Lebanese mother and a mother acquiring the Lebanese nationality by marrying a Lebanese. A married mother, who acquires the Lebanese nationality by marrying a Lebanese, has the right, under article 2, to confer the Lebanese nationality to her minor children.

The Nationality Law allows Lebanese man to confer the nationality to his non-Lebanese wife. However, it prohibits Lebanese woman from conferring her nationality to her non-Lebanese husband, which is considered a flagrant discrimination against her citizenship.

On June 2009 ,16, a judgment has been issued by the court of “Jdeidet el Metn” region, headed by the chief judge John Azzi and two judges, Rana Habka and Lamees Kazma, allowing the Lebanese mother Samira Soueid, who is married to an Egyptian man, to confer her nationality to her minor children. The judgment received high media attention, and raised political and sectarian reactions and public debate, but the file was closed with women’s disappointment in Lebanon, when accepting the appeal submitted by the Lebanese State and annulling the judgment⁹³.

On 2012/03/21, the Council of Ministers adopted a resolution on the establishment of a ministerial committee to consider the issue of the Lebanese mother to confer her nationality to her children. The committee has established its position on the right of Lebanese woman to confer her nationality, based on the demographic balance among Lebanese sects, and concluded with the recommendation that amending the Lebanese Nationality law would affect the encompassing interest of the country.

In response to the crisis, there are a number of draft laws aiming at amending the Nationality Law, including:

- ▶ A draft law submitted by the former Minister of Interior and Municipalities, Ziad Baroud.

- ▶ A legislative proposal submitted by the former deputies BahijTabbara and Pierre Daccache.
- ▶ A legislative proposal submitted by the former deputy Imad El Hout⁹⁴.
- ▶ A draft law submitted by the Lebanese Foreign Minister Gebran Bassil on March 2018, 21 to amend the Nationality Law as to allow Lebanese woman to confer her nationality to her family when marrying a foreigner, except the marriages to a man from neighbouring States.

Nationality campaigns emphasize the legislative requirement that guarantees equality and does not detract from any woman's rights; they also emphasize the importance of the non-fragmentation of the ceiling of speech and demand⁹⁵. However, beside the legislative demand, many initiatives proposed solutions on the nationality law crisis.

In 2010, the Ministry of Interior and Municipalities issued a decree granting the husband and children of a Lebanese woman a free discretionary residence⁹⁶. Considering the importance of the resolution, the following observations shall be considered:

- ▶ It can be revoked anytime under a parallel decision.
- ▶ It should be renewed every three years.
- ▶ The Lebanese Directorate of General Security is given discretionary power to accept or reject the request based on its investigations.
- ▶ It is true that the ruling did not exclude certain nationalities from obtaining discretionary residences, but it did not respect specific situations in which it is not possible for the family, especially Lebanese women, to obtain identification documents from the husband's country. Upon which, the OMSWA has requested that the Lebanese mother married to a foreigner benefits from the health card to be issued by the Lebanese Ministry of Public Health, on an equal footing with all Lebanese citizens. But the project is still under consideration.

On 2015/11/12, the Lebanese Parliament adopted a legislative proposal aimed at determining the conditions of reinstatement of nationality in order to empower migrants and the afro-descendants of Lebanese origins to reinstatement of nationality. The reinstatement of Lebanese nationality law itself was based on gender discrimination; whereas the benefits are confined to afro-descendants of males of Lebanese origins only. In fact, the law included 3 references to "males" (one of his male origins or male relatives) as distinct from females, and two references to "father" (from his father) as distinct from mother⁹⁷.

On 2016/1/7, the resolution number 1 was issued by the Constitutional Council, rejecting an appeal submitted by the deputies of the Democratic Gathering on the reinstatement of Lebanese nationality law. The resolution did not tackle the unconstitutionality of the law, which was based on gender discrimination when it created gender discrimination between those who can benefit from its provisions. The resolution was issued by a majority of nine votes against one objection by the Vice-President of the Constitutional Council, Judge Tarek Ziadeh. He contradicted the majority opinion in two points:

- ▶ First, the Council was required to examine the constitutionality of all law provisions even if it was not mentioned in the submitted appeal.
- ▶ Second, the law, through its discriminatory clause against women, was inconsistent with the principle of equality between all citizens enshrined in the Constitution, affirming that "Lebanese citizens refer to both males and females without any distinction or discrimination between them⁹⁸".

94 We could not access any site or news related to this law (number, date of registration...).

95 <http://crtada.org.lb/ar/project/nationality>

96 <https://nationalitycampaign.wordpress.com/2010/09/06/recent-decree-int-force/>

97 <http://www.legal-agenda.com/article.php?id=1313>

98 <http://74.220.207.224/newsarticle.php?id=1104&folder=legalnews&lang=ar>

As a result of the Nationality Law, women are facing many problems in the following areas:

- ▶ Easily obtain residence in Lebanon due to financial and administrative constraints.
- ▶ Access to fundamental rights such as education and health care. After the Syrian crisis, problems have worsened due to the mainstreams issued by the competent ministries whether the Ministry of education and higher education, the Ministry of Health or the Ministry of Labour, which formed discrimination between the Lebanese students and the non-Lebanese students, and between Lebanese workers and foreign workers. In addition, Lebanese women married to Syrian men lost their children's rights to benefit from health services at the expense of the Ministry of Health.
- ▶ Register children in registration records. Personal Status Registration Law imposes costly juridical proceedings to register births after the age of one.

In a related context, the nationality issue raises the question of stateless persons. The first category of stateless persons is known as “unregistered” and includes the largest number of stateless persons, and its members are non-existent before the law and authorities. The second category, known as “under consideration”, has legal existence and enjoys some fundamental rights, most importantly, the legal existence and some civil, economic and social rights. However, its features, history and solutions are still open to various interpretations⁹⁹.

Recommendations:

At the international legislative level, the Lebanese State shall withdraw the reservation on article 9 of CEDAW Convention.

At the national legislative level, the Lebanese State shall amend article 1 of the Lebanese Nationality law to become as follows: “is considered Lebanese every person born of a Lebanese mother or father”. Article 5 thereof is also amended on the non-Lebanese husband to become alike the non-Lebanese wife who obtains the nationality after being married to a Lebanese man.

At the strategic level, the Lebanese state shall develop a global and clear policy on statelessness.

VII. Labour, Social Security, Taxes and Commerce Laws

Gender inequality in economic and social rights is multidimensional and very complicated in Lebanon, due to the lack of a holistic approach to address it. According to the 2016 Global Gender Gap Index, Lebanon ranks 135 out of 144 countries (the eighth worst country).

The labour law prohibits women from working in certain professions that are considered hard or hazardous, for instance, mining industry, welding and metalwork, glass work, alcohol production, as well as tanneries and slaughter houses. Also, provisions related to woman are included in section two of the Labour Law which also deals with children. The Labour Law excludes from its provisions domestic workers, as well as women and men working in the agricultural sector. While women have the right to take maternity leave for ten weeks that should be paid by the employer¹⁰⁰.

⁹⁹ <http://legal-agenda.com/article.php?id=1372&lang=en>

¹⁰⁰ Lebanon, Labour Law, articles 28, 29; Article 38 of the Legislative Decree No. 112 on the lists of government employees. The amendments were published on the extension of maternity leave by ten weeks.

However, this does not amount to the recommendation No.183 of the convention of the International Labour Organization on maternal protection, to which Lebanon has not acceded. Nevertheless, many employers violates the prescribed leave, and practice pressure on women whether to submit their resignation in case of pregnancy or to bring a substitute to carry out the work during their leave. Thus, it is considered that maternal leave should not be paid by employers but by the social security fund so that women would be more protected. On 2017/12/19, the Council of Ministers although approved a draft law submitted by the Office of the Minister of State for Women's Affairs, aimed at granting paternity leave to the father, and referred it to the Parliament.

It is true that the Labour Law prohibits gender-based discrimination against women in any type of work and in remuneration, promotion, competence and clothing, but it lacks a clear mechanism for ensuring control in the private sector and determining the deterrent penalties to every legal offence, especially those that are gender discriminatory. Despite the important role of the Arbitral Labour Council on workers protection, a complaint is filed due to procedural delays before it¹⁰¹.

The gaps are not limited to the provisions of the Labour law. Article 3 of the Labour Law and article 46 of Social Security Law provide for the welfare benefits to male workers and civil employees, but this is not applicable to women. For instance, male employees could receive compensatory payments for unemployed wives, while female employees could not do so unless their husbands were dead or suffer from a disease that does not allow them to work. Regardless of the gender of the employee, compensation is provided to every child. Article 10 of benefits and services systems in the State Employees' Cooperative and article 14 of the Social Security Law discriminate against women in access to health care, hospitalization and other social benefits for their husbands.

The National Committee for Lebanese Women is proposing amendments to articles ,26 ,14 47 and 48 of the Social Security Law. The proposed amendments will be discussed within the competent Parliament Committees. In addition, on 2017/12/19, the Council of Ministers adopted a draft law submitted by the Office of the Minister of State for Women's Affairs, to amend some provisions of the Social Security Law, in order to ensure gender equality in social security benefits. On July 2018 ,13, Decree no.3357 was issued and by virtue of which the President of the Republic referred the said draft law to the Parliament. Such decree aims to amend some provisions of the Social Security Law to ensure gender equality.

At the legal level, article 31 of the 1959 tax code as amended in 2003, expressly discriminates against women in the allocation of deductions and allowances. According to this article, married men have the right to get a discount for dependent wives and up to five children, but this is not applicable to a married woman, unless she can prove that she is the head of household in case her husband is dead or unable to work. Thus, formally married women bear higher fiscal charges than men because they are treated as single women for tax purposes, and they do not get tax allowance granted to married men and men with children. In the context of taxes, a study by the Arab NGO Network for Development reveals that tax policy in Lebanon discriminates against women, whether expressly through the legislations depending on gender and social status, or indirectly, through reliance on indirect taxes and on a comprehensive regressive tax structure that disproportionately affects poor women¹⁰².

Articles from 625 until 629 of the Commercial Law of the year 1942 are considered discriminatory against women because they impose restrictions on wife's property, in case her husband declares his bankruptcy. In that case, the woman is also treated as dependent from her husband, and the property acquired during marriage is considered a property acquired with her husband's money,

101 Some of the declarations of a number of jurists whom we interviewed in the course of the report drafting.

102 Arab NGO Network for Development, Special gender Analysis for tax policies in Lebanon, Farah Kobeissi, 2016

unless the woman can prove otherwise. Another opinion considers that the objective hidden behind these articles is to protect the creditors of the bankrupt husband, since this latter often resorts to “trafficking” his funds away from his creditors, through depositing them on behalf of his wife’s name. Thus, these articles may need to be reformulated, although the objective of which was not discriminatory but protective for creditors. In light of the change of women social circumstances and breaking in labour field using her personal name and for her own interest, these provisions were therefore amended in addition to other provisions having been added to the Commerce Law. Moreover, to increase new commercial principles under a draft law having been studied by competent committees in the Parliament and referred since 09.05.2018 to the general authority of this council to vote for it and issue it as being a law¹⁰³.

Recommendations:

At the legislative level, the Lebanese State shall adopt the proposed amendments on labour, social security and commerce laws, tighten the application of the laws issued in favour of the female workers and impose sanctions for non-implementation.

At the level of policies, the Lebanese State shall reconsider the tax policy and adopt more progressive policies in order to finance the fundamental rights, as well as taking into account taxes from gender perspective. It is important to provide a well-designed social security and to establish a social protective groundwork to the most vulnerable persons is not limited to the minimum of their social and economic rights, which the state always seeks to fulfil.

At the level of services, many actors shall set up studies and researched on social and economic rights and provide a gender disaggregation of employment data, especially those related to informal economy from women perspective.

VIII. Participation in public life

Lebanon ranks 139th in the world in terms of women’s participation in Parliament. Despite Lebanon’s commitment to introduce appropriate measures to increase the number of women at all levels of elected and appointed functions, women were not part of the Lebanese Government before 2004, when two women ministers were appointed. Since then, each council of ministers has included only one woman, while in some councils there was no woman involved.

In the last municipal and mayor elections in %5.4 ,2017 of women succeeded in accessing to Municipal Councils. Although the representation was very low, it increased by %0.8 compared to women’s representation in 2010.

In the last parliamentary elections in May 2018, there were 114 female candidates; 86 of them have been through the electoral process. The remaining women either withdrew their candidacy, did not joined electoral lists, or did not succeed in the composition of lists as the proportional election law, followed in Lebanon for the first time, did not allow for individual candidature rather it required the composition of electoral lists. Only 6 women gained access to the Parliament out of 128 seats.

The amendment to clause 2 of article 25 of the Lebanese Municipal Act No. 1997/12/29/665, has allowed a married woman who moved to her husband’s registry number in another country, to stand for municipal and mayoral elections in her hometown.

¹⁰³ It represents the opinion of the honourable Ministry of Justice in Lebanon

Participation of women in public space in Lebanon is still limited despite all developments. The reasons that hinder women's political participation in public life are interlinked and cannot be limited to the scope addressed in the present report¹⁰⁴. However, it should be highlighted as being a typical that clarifies the necessity of labour at several levels along with legislative repairs. Thus, the most prominent factors, that discourage women from participating in political life, are:

- ▶ Limited women's representation in parliamentary life is due to the majoritarian voting system, which was adopted in legislative elections until the 2018 session. In addition, the high financial fees for nomination and candidates' communication and publicity campaigns in the absence of any specific legal ceiling to election campaign spending that can be effectively and efficiently controlled. Moreover, the electoral system nature that is based on electoral districts¹⁰⁵.
- ▶ The impact of the sectarian political system on the overall women's political participation as well as the party, family, community and clientelism systems that sponsor the parliamentary elections cannot be ignored. Political life in Lebanon highly depends on the tribal, sectarian and doctrinal standards, which limits women's participation opportunities.
- ▶ The poor participation of women in the leadership of political parties, the lack of women's nomination by parties within their electoral lists under the pretext of fear of losing electoral seats.
- ▶ Non-adoption of female quota despite the fact that most of the political parties insisted on the importance of the female quota system, as well as on the importance of giving women a greater role in political life; and despite the ministerial statement of Saad Hariri Government (from November 2016 till May 2017) promising to women's associations to include a female quota in the new electoral law. However, female quota fell in the vote on the new parliamentary electoral law prepared in 2017, and on the basis of which the parliamentary elections were held in May 2018.

Recommendations:

Adopt determined measures, including those related and temporarily in line with article 4 (paragraph 1) of the Convention on the Elimination of all Forms of Discrimination against Women and in consensus with the General Recommendations No. 23 and 25 of the Committee on the Elimination of Discrimination against Women.

¹⁰⁴ See available literature on the issue of women's participation in public life.

¹⁰⁵ Women's parliamentary participation study issued by the Lebanese Association for Democratic Elections and The Lebanese Democratic Women's Gathering in 2004

Section 3. Inadequate Protection Frameworks

This section presents the most prominent protection laws approved by the Lebanese State in the recent years. During the analysis of the most important gaps included either in this provision of in application; it has been appeared that all analytics of these gaps refer to the declarations of lawyers and jurists whom they were interviewed in the report. Therefore, it is emphasized that the analysis is related to the report's objective, i.e in-depth analysis of every title, and there are many literatures that helps. For this purpose, the presentation excludes the most prominent gaps that help in making the report an advocacy tool in line with the planned objective.

IX. Law on the Protection of Women and Other Family Members from Domestic Violence

On the 1st of April 2014, the Lebanese Parliament passed Law No. 293 on the “Protection of Women and Other Family Members against Domestic Violence¹⁰⁶” after years of struggle by the National Alliance for the Protection of Women against Domestic Violence. In 2015, the concerned committee welcomed the elimination of the discrimination against women by adopting the law. However, the Lebanese State called for its amendment¹⁰⁷ in its concluded observations. In the same framework, many organizations and rightful communities consider that the law as adopted in the general authority of the parliament does not ensure the full justice and the effective protection for women in Lebanon after the amendments made to the original provision¹⁰⁸.

Law No. 293 relatively succeeded at several levels, the most important of which:

- ▶ Breaking silence on domestic violence issues in Lebanon and developing the public opinion approach.
- ▶ Wide community knowledge in the presence of a protective law that mitigates the possibilities of manipulating women.
- ▶ Acknowledging the role of State in providing protection for women by adopting the law and all attached procedures aiming to its effectiveness.
- ▶ Promoting the role of media interaction with women's issues.
- ▶ Succeeding at the institutional level in strengthening the role of security forces and judicial authorities to combat domestic violence.
- ▶ Many judges elaborated the concept “Domestic violence”.
- ▶ Involving children in restraining orders regardless of the age of custody, by classifying them as secondary victims, in addition to other persons who are at risk.

106 Lebanon, Law No. 293 of 2014 on the Protection of Women and Other Family Members from Domestic Violenc. Available at the following link: <http://www.kafa.org.lb/foapdf/fao-pdf635120756422654393.pdf>

107 Committee on the Elimination of Discrimination against Women, Concluding observations on the combined fourth and fifth periodic reports of Lebanon, 24 November 2015.

108 <http://www.kafa.org.lb/fields-of-action/1/13/the-law-to-protect-women-from-family-violence>

- ▶ Restraining orders issued by some judges of urgent matters compel the offender to take rehabilitation sessions, without the need to wait for a conviction decision by the court.
- ▶ Issuing restraining orders for open duration until deciding on the origin of marital relationship.
- ▶ Issuing advanced judicial decisions in applying law no. 293, and drawing on the first decisions, which approach, was very advanced to the files¹⁰⁹.
- ▶ Law no. 293 promoted the relationship and the partnership of the civil society organizations with formal frameworks.

Many organizations longed for focusing on the positive aspects of law no. 293 and on the better practices it devoted, starting from highlighting the harm that affects women when criticizing the content of the law. Hence, studying the challenges that hinder the real protection of all women from all forms of domestic violence remains important.

Challenges to Law No. 293

- ▶ Domestic violence was addressed in Law No. 293 in a protective approach specifically for individuals. In contrast, the nature of the Penal Code is still the same as it has been since 1943. The Penal Code philosophy is based on the protection of the society, not of the individual, which leads to limited protection for individuals. This affects different type of crimes that may be disregarded or provided for and affects the punishment and protection approach. For instance, the law did not criminalize sexual harassment while it did so for acts affecting public morals and ethics.
- ▶ Law No. 293 is aligned with the personal status laws, which contradicts the recommendations of the United Nations “Handbook for Legislation on Violence against Women”. The latter states that “where there are conflicts between customary and/or religious law and the formal justice system, the matter should be resolved by giving consideration to the human rights of the survivor in accordance with gender equality standards¹¹⁰”.
- ▶ The law does not recognize domestic violence as a crime in itself; neither does it clarify if other crimes provided for in the Penal Code are also included in the Domestic Violence Law, which raises concerns on the need to clarify its definition¹¹¹. While the drafts included definitions of physical, sexual, emotional and economic violence, it was not the case in the final version.
- ▶ Non-criminalization of marital rape and allowing its consequences upon women such as psychological and physical violence.
- ▶ Conflict of powers of courts regarding restraining orders that include alimony. Religious courts consider it as an interference with their powers.
- ▶ Limited protection for children as it is only identified in relation to custody age.

Problems regarding the enforcement of Law No. 293

- ▶ Most protective orders are issued by the judges of urgent matters, the mandate of whom are limited and cannot be surpassed, whether in terms of interaction with law enforcement authorities, or in terms of the limited capacities of judges of urgent matters to address domestic violence or to interfere only to mitigate the damage rather than addressing the causes of the problem. The role of the judges of urgent matters in applying law 293 and at pointing out to the advances protective decisions they issue. In contrast, it is important to review fundamental problematics deliberated by lawyers and actors of law 293.

109 These opinions represent a number of lawyers and legal consultants working in international and local organizations and whom have been consulted for the necessity of this report.

110 <https://www.hrw.org/ar/news/2014/04/03/253275>

111 See Human Rights Watch, “Lebanon: Domestic Violence Law Good, but incomplete”, 3 April 2014. Available at the following link <https://www.hrw.org/news/2014/04/03/lebanon-domestic-violence-law-good-incomplete>

In many cases, the judges of urgent matters refuse to issue restraining orders without filing a criminal complaint and including a forensic report in the file. This issue highlights the need to examine laws in light of gender-based violence and to adopt power relations as criteria for the consideration of protection claims.

▶ Limited protection of minors. Judges of urgent matters guarantee in their orders the protection of minor children. However, this is not sufficient and need to be complemented by juvenile judges.

▶ In case the wife is minor and is ineligible to submit claims to the judges of urgent matters, juvenile judges are only eligible to issue restraining orders by virtue of the provisions of Law No. 422. The text of restraining orders issued by virtue of this law does not force, for example, the offender to pay alimony.

▶ It is true that nothing prevents the judge (whether the trial judge or the judge of urgent matters), who is considering the writ on petition, to conduct all investigations required before being decided, including the request to hear the other party's observations and the appointment of a medical examiner and other (as the case might be), especially in the cases where the said judge perceives that the writ on petition is not serious (including the request for protection) or even it is arbitrary in its submission. Referring to domestic violence issues, a large number of lawyers, who have been sampled, stress on the insistence of some judges of urgent matters to issue protection orders by virtue of the writ on petition and the request to hear the parties, thereby impeding investigations and delaying the duration to access to protective ruling¹¹².

▶ The Directorate General of the Internal Security Forces affirms that police stations and judicial detachments are receiving regular trainings to provide advisory services for domestic violence victims. In 2013, a memorial service No. 164/204 was issued by the Directorate General of the Internal Security Forces on how different security services and sites can deal with women exposed to violence. While Law No. 293 provides for the establishment of a division specialized in crimes of domestic violence at the Directorate General of the Internal Security Forces to investigate complaints, this division has not been established yet (Article 5). However, the duties incumbent on the Internal Security Forces and stipulated in law no. 293 are applied strictly through different regional sectors that are investigating in this domain according to the announcement of the Directorate, and which affirm on the training of their employees on the techniques of investigation with women in cooperation with civil society and universities. In other words, 15 operating rooms are prepared to deal with women exposed to domestic violence in the competent judicial police capacity, in addition to three police stations in Central Bekaa.

▶ Lack of respect of gender balance by law enforcement's staff (cadres and teams), due to the limitation of human resources availability.

▶ Limited awareness regarding the law existence and implementation among women, community members and law enforcement officers¹¹³.

▶ Law No. 293 provided for the establishment of a special fund to provide assistance for domestic violence victims and rehabilitate actors; however, this fund has not been established yet.

▶ Lack of organizations working on the law. Law enforcement entities are facing problems in referring domestic violence cases to relevant organizations that provide support services for women who are victims of violence.

▶ Lack of secure spaces and shelters for women and girls.

▶ Spatial and functional jurisdiction restrictions constitute an obstacle to women's access to justice, as several police stations refuse to receive domestic violence complaints and ask the prosecutor to file a lawsuit before the Public Prosecution, which is considered one of the obstacles before women in many regions where women are obliged to move to the provincial capital to file a lawsuit before the Public Prosecution.

112 Writ on petition is a ruling issued by the judge after reviewing the file without requiring the request to hear the parties, but still the judge has the right, in all cases and particularly at suspicion and mistrust, to stress on listening to the statements of both file parties.

113 Dissecting Domestic Violence Law in Lebanon: Are Women Protected? Policy brief issued in August 2017 by Issam Fares Institute for Public Policy and International Affairs at the American University of Beirut.

With regards to these practices, and years after the adoption and law enforcement, the Ministry of Justice and Kafa (enough) Violence and Exploitation, in partnership with the National Commission for Lebanese Women, introduced on April 2017 ,7 a draft law to amend Law No. 293. After a Cabinet meeting held on August 2017 ,3, the draft law to amend the Law on the Protection of Women and Other Family Members from Domestic Violence was approved as reported by the Ministry of Justice, according to the Statement on the Cabinet Meeting¹¹⁴. A number of observations were noted on the proposed draft amendment; therefore, the Secretariat of State for Women shall work on a national workshop to reamend the proposed provision before being send to the Cabinet¹¹⁵.

Main proposals of the draft law to amend Law No. 293

- ▶ Redefine “family” to include both spouses, not only within marriage union but also after its dissolution.
- ▶ Redefine domestic violence to include the use of physical force and other forms of power within the family.
- ▶ Punishment should apply to anyone who incites, participates or is involved in the crime even those who are not members of the family to avoid seeking help from non-family members.
- ▶ Include a specific penal provision, eliminating the need to refer to the provisions of the Penal Code, by which domestic violence is recognized as a crime in itself and all criminal consequences are punished, including intentional and unintentional killing, sexual abuse, freedom restriction and physical, moral and economic harm.
- ▶ Adopt the principle of judges’ specialization in domestic violence issues by assigning special judges in each Governorate to receive complaints and follow-up all relevant phases by public lawyers and rule and trial judges.
- ▶ Assign protection orders to women.
- ▶ Protect children regardless of the custody age.
- ▶ Enhance the woman’s right to take her children out and all other persons residing with her if they are at risk.
- ▶ Compel the perpetrator to take rehabilitation sessions by virtue of protection order.
- ▶ Activate enforcement mechanisms for protection orders among competent authorities.
- ▶ Adopt the amendment that allows the Attorney General to take necessary action in order to implement the protection order issued by the judge of urgent matters¹¹⁶.

Recommendations:

At the legislative level, The Lebanese Cabinet shall enact a draft law to amend the Law on the Protection of Women and Other Family Members from Domestic Violence.

At the level of services, the different actors shall continue to work on raising awareness and knowledge on Law No. 293 within a general national action, and to raise awareness throughout the provided services attached to Law no. 293. The competent authorities shall also establish a special fund to provide assistance for domestic violence victims as stipulated in the Law. Best practices and expertise related to Law enforcement No. 293 should be documented. Different stakeholders should work on clarifying ambiguities in the law, especially the legal definition of violence.

114 <http://www.presidency.gov.lb/Arabic/News/Pages/Details.aspx?nid=24331>

115 Declaration of the Secretariat of State for Women’s representative in Lebanon in the consultation meeting held in Beirut on June 29, 2018 to develop this report.

116 <http://www.kafa.org.lb/kafa-news/123/%D8%A5%D8%B7%D9%84%D8%A7%D9%82-%D9%85%D9%82%D8%AA%D8%B1%D8%AD-%D8%AA%D8%B9%D8%AF%D9%8A%D9%84-%D8%A7%D9%84%D9%82%D8%A7%D9%86%D9%88%D9%86-%D8%B1%D9%82%D9%85-2932014-%D8%A7%D9%84%D9%85%D8%AA%D8%B9%D9%84%D9%82-%D8%A8%D8%A7%D9%84%D8%B9>

At the level of law enforcement devices, the establishment of a division specializing in domestic violence crimes and the activation of article 5 of Law no. 293 at the Directorate General of the Internal Security Forces are therefore important.

X. Law on the Protection from Human Trafficking

In 2005, Lebanon joined the Convention against Transnational Organized Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, which complements it.

At the national level, law on the Protection from Human Trafficking No. 164 was promulgated in 2011. In 2014, the government issued a ministerial decree establishing an anti-human trafficking office at the Internal Security Forces Directorate to manage human trafficking investigations. The general memorandum no. 339/204 sh4 was issued in September 2017 on how to deal with and investigate in human trafficking and sexual crimes, and to provide aids to its victims in partnership with ABAAD and in coordination with UNICEF, as well as UNHCR. This memorandum is considered the preliminary standard operating procedure in this field. It was approved by the Public Prosecution at the Court of Cassation and became obligatory to all investigators. It deals with all techniques appropriate to detect human trafficking offenses and focusing on children, in addition to providing all support to asylum seekers through UNHCR and required health, psychological and social services.

Although Law No. 164 on Trafficking in Persons provides for severe penalties, only a few provisions have been issued so far. On 2017/11/27, the Criminal Court in Beirut issued a ruling prohibiting the punishment of a woman forced by her husband to work as a prostitute. It is the first judicial ruling to exempt a victim of sexual abuse from punishment¹¹⁷. This provision indicates a change in the approach of the Lebanese courts to the concept of the criminal will of women who are abused in prostitution following the issuance of the Law on Trafficking in Persons in 2011.

The issue of human trafficking in Lebanon raises many problems, some of which are related to the Law No. 164 that includes a number of gaps, while others are constructive in criminalizing prostitution in the Lebanese Penal Code.

► The legal status of the victim is one of the main gaps in Law No. 164. While the law provides for diminished penalties for human abuse and trafficking, the victim remains subject to prosecution and punishment and is exempted from punishment if she was forced to commit acts punishable by law or if she has violated the residence or work conditions. The Lebanese legislator limited the range of protection of victims from trafficking by not punishing them, and did not seek to deny their criminal responsibility. They are either brought to trial quickly and collectively, sometimes in the absence of a lawyer, or continue to be detained in the Directorate General of Public Security until deportation without being referred to the judiciary. While law allows the foreign victim to remain in Lebanon during the period of investigation under a decision issued by the investigating judge or the judge who is examining the case, the question remains legitimate on the extent to which the General Directorate of Public Security is ready to implement the judicial decision in line with its policy that consist in the non-implementation of judicial decisions to release some foreigners and prevent their deportation¹¹⁸, as well as the question about the

117 Published in Issue No. 53 of the legal agenda <http://legal-agenda.com/article.php?id=4262>

118 <http://www.legal-agenda.com/article.php?id=46>

extent to which they comply with the mandatory provisions in terms of notifying their embassies and hiring translators. Moreover, the law does not take into consideration the privacy of the victim if she is a woman or a child, except for the diminished punishment if the victim is a pregnant woman.

▶ Lack of interest in women refugees, victims of trafficking, leads to a large gap. Reports indicate that Syrian women are most at risk of trafficking within the practice of forced prostitution and sexual abuse in Lebanon. A series of raids in 2015 and 2016 led to the discovery of dozens of Syrian women being forcibly detained in what became known as “the case of Chez Maurice”.

▶ The law mandated the Ministry of Social Affairs to establish a fund to assist victims of trafficking containing confiscated funds from traffickers. At the technical level, the Ministry has not yet established the above-mentioned fund.

▶ Limited number of women investigators among the strong cadre of law enforcement concerned in this type of files¹¹⁹.

▶ Contradiction between the Law on the Punishment for the Crime of Trafficking in Persons, which focuses on the protection of trafficked persons, and the criminalization of prostitution in the Penal Code. Prostitution in entertainment places such as «night clubs» is linked to special procedures imposed by the General Security on the so-called «artist visa.» A large number of women engaged in prostitution enter Lebanon through an «artist» visa. The artist's visa does not explicitly allow prostitution in entertainment venues, but it is known that it happens in this situation in order to practice prostitution or human trafficking. The problems raised by the issue of prostitution in Lebanon are not limited to the official stance, but rather to the stance of the organizations and actors on the issue. The first stance is opposed to the criminalization of sexual acts on the grounds that the organization provides the greatest protection¹²⁰. The second stance argues that the non-criminalization of the sexual act is considered as organizing it and thus legitimizing the practice of procuring, owning and operating brothels as well as purchasing sexual services. Thereby it promotes a culture of impunity in the sex trade, which would encourage the abuse of women and their trafficking. At the national level, the Lebanese State must remove all contradictions between the Law of 2011 on the Punishment for the Crime of Trafficking in Persons and the Penal Code attached herewith international trend included in the international charters and decisions to which Lebanon is engaged and which is very clear in this context.

In all cases, problems to which women victims of prostitution are exposed in Lebanon, and the most prominent violations that affect them and therefore diminish the opportunities of protecting them from all forms of gender-based violence must be highlighted.

▶ Discriminatory stereotypes reflect on the stances of different actors and stakeholders of women issues, and enshrine and anchor moral and psychological violence against them and therefore prevent its protection.

▶ Problems are not limited to stereotypes but also to Social stigmatization. Social stigmatization leads to the absence of women protection mechanisms and to the reconciliation with the idea of violence practiced against them and justifying it with different reasons.

▶ Scarcity of psychological, social and economic rehabilitation programs related to women in and out of jail being addressed by official frameworks.

▶ Non-integration of women issues, sufficiently, in national policies and strategies on gender issues.

▶ Women's lack of access to fundamental health rights, as required, due to their poor economic status resulting from exploitation; and due to the rejection of a huge number of health service providers to deal with these categories of women, in addition to the high cost of health services in Lebanon, whether related to physical or psychological health.

119 These observations are taken from the declarations and analysis of jurists and representatives of formal governmental institutes in Lebanon whom we have interviewed for the necessities of drafting this report.

120 <https://www.hrw.org/ar/news/2016/07/29/292593>

- ▶ Scarcity of women access to equal opportunities in labour due to criminal conviction that hinders any opportunity to enjoy the right to work because of committing a penal offense.
- ▶ Negative abuse of media that leads to show the traditional picture about these women without any consideration of the possibilities of being exposed to violence and trafficking.
- ▶ Women are exposed to daily problems in cases of pregnancy and the lack of abortion possibilities, which leads to legal problems in establishing the baby's paternity and larger problems, later on, in the custody and when taking care of her child.

In 2015, CEDAW recommended the State of Lebanon to amend article 523 of the Penal Code as necessary to ensure that victims of trafficking in persons are not prosecuted.

Recommendations:

At the legislative level, the law to punish human trafficking shall be amended in accordance with the mentioned recommendations in this report and other literatures. Article 523 of the Lebanese Penal Code shall be also amended to ensure and provide the protection of women victims of trafficking from criminalization of prostitution offense.

At the strategic level, Lebanon shall fulfil its obligations stipulated in the international conventions on protection of human trafficking and comply with the prohibition of trafficking in persons through a proactive and long-term preventive approach to prohibit human trafficking through drafting and amending legislations, policies and strategies at the security, justice, psychological and social levels. Editing indexes of human trafficking is therefore important to allow an optimal protection of victims.

At the level of optimal protection of victims, special importance shall be given to the protection of women and girls from trafficking during conflicts in line with the General Recommendation No. 30 of 2010 issued by the Committee on the Elimination of Discrimination against Women. In addition, children protection shall be promoted in compliance with the recommendations of the Child Committee.

At the international level, it is required to be adhered to submit the periodic report to the Child Committee according to the optional protocol attached herewith the Convention on the Rights of the Child concerning the sale and exploitation of children in prostitution and pornography.

At the cognitive level related to human trafficking, it is necessary to maintain providing training for personnel involved in the prevention of trafficking in persons, such as law enforcement and immigration officials, as training should respect human rights and sensitive issues related to children and gender issues. Border protection shall be strengthened by providing training for border police officers on the prevention and protection from human trafficking. In addition to the measures that should be taken against smugglers and cross-border trafficking networks. Promoting the role of the judiciary by strengthening compliance with the law and the examination of files using a human rights based approach. As well as promoting awareness and knowledge on the law by various actors and stakeholders. At the national level, dialogue between different actors and governmental and non-governmental institutes shall be activated on the problems of human trafficking and prostitution. This dialogue elaborates clearer perceptions about victims' protection and the state's responsibilities, and the elimination of the ambiguity that have been analysed in the previous paragraph.

At the level of services, programs shall be established to treat victims of trafficking and rehabilitation in society, in several ways including:

- ▶ Work training
- ▶ Legal assistance.
- ▶ Confidential health care and cooperation with non-governmental organizations to provide social, medical and psychological care to victims of trafficking.
- ▶ Ensure victims' right to compensation for the damages they suffered.
- ▶ Enhance service provision for women and children in terms of adequate shelters and telephone lines to assist victims.
- ▶ Establish the fund provided for in the law and activate judicial aid for victims of trafficking.
- ▶ Provide shelters to protect women and girls who are victims of human trafficking.

XI. Law on the Protection of Juveniles in conflict with the law or at risk

According to the Convention on the Rights of the Child (1989), States shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of violence or harm, physical or mental abuse, neglect or negligent treatment, abuse or exploitation, including sexual abuse, while being in parent (s) or, legal guardian (s) custody, or any other person who undertakes to take care of the child.

Lebanon passed the Law No. 2002/422 dated 2002/06/06 on the Protection of Juveniles in Conflict with the Law or at Risk. While acknowledging the importance of the law, there are a number of gaps that hinder its implementation:

- ▶ The law does not provide for the need to have judges, police, forensic doctors and social institutions specialized in juvenile cases. We hereby point out that the Department of juveniles in the Ministry of Justice organizes appropriate training sessions in partnership with UNICEF on the law no. 2002/422 and about the most prominent jurisprudences to benefit the juvenile judges, in addition to providing the mentioned law since it is an act that includes the judicial lessons' institute articles.
- ▶ The conflict of qualitative and functional jurisdiction of juvenile judge, especially in the case of complex marital conflicts or divorce or separation with cases dealing with the custody of minors initiated before religious courts. Religious courts consider that some juvenile judges are infringing on their powers. On 23.04.2007, the General Authority of Court of Cassation issued a decision that allows the juvenile judge to take measures in order to protect the juvenile even if he/she did not commit any offense. One of these measures is to issue a decision on delivering the child to the father, the mother or to a social institution. According to this jurisprudence, such measure shall not infringe on the powers of the religious or spiritual court relating to custody, because the measure taken by the judge is limited to protecting juveniles and it is not therefore considered an intervention to the religious or spiritual courts' powers since it is limited to protecting juveniles from a specific environment that might cause him/her danger in the future¹²¹ if he/she stayed therein. On 07.07.2009, the court of cassation issued a decision on the rejection of the communities' objections on the decisions of the civil juvenile justice aiming to take measures on the protection of any child, despite its contradiction, in some cases, with the judgements issued by the religious and sectarian courts. For instance, taking a decision on keeping the child in his mother custody despite the transfer of the guardianship to the father by virtue of a religious judgment.

¹²¹ An extract from a worksheet submitted by the president judge Fawzi Khamis on the mechanisms of protecting juveniles at risk in light of the law and the jurisprudence in Lebanon, and among the actors of the national conference about childhood priorities, La Sagesse University in Lebanon, 2010.

Such decision relied on the concept of “threatened child” and on the elaboration of the jurisprudence and the study. Thus, it is devoted for the first time a new general regulation on the control of religious judgements after that the court of cassation has started to reject all the claims in order to be controlled¹²².

► The law does not recognize the powers by which the juvenile judge compels the child’s parents or those responsible for him to take measures that are in the child’s best interest, such as treatment or psychological family follow-up under penalty. Moreover, the judge does not have the power to condemn those who fail to comply with his decisions of protecting the juvenile at risk; except for the general provision that gives him the power to refer any of the parents who fails to implement the decision to the Public Prosecution where against whom he shall file a lawsuit for an offense of the non-implemation of a judicial decision.

► The law did not observe in its provisions any privacy relating to girls/ juveniles children in conflict with the law or at risk.

► Few judges have elaborated on the concept of danger mentioned in the law, and which frames the intervention of the juvenile judge in the protection. For example, juvenile justice in Beirut issued between 2004 and 2009 dozens of decisions on the protection of juveniles, particularly minor girls, which provide the required legal protection for juveniles, especially minor girls who are victims of early marriages and other violations¹²³.

► Poor oversight of civil associations concerned with juvenile at risk. The Department of Juveniles in the Ministry of Justice is not yet established in the official structure of the Ministry of Justice. Therefore, its process is limited to the control of the contract articles implementation without having any clear role concerning the type of labour or service provided to the children in the associations contracted with the Ministry of Justice. As for the associations contracted with the Ministry of Social Affairs, the control mechanism is performed on the institutions that welcome children at risk. However, the raised question is how this role is played and about the persons whom are related to this role in terms of expertise and control type.

► The absence of shelters for children at risk and the poor capacity of these shelters.

► The detention places are inappropriate for juveniles, and the security forces are forced to detain them with detainees and the convicted adults who are imprisoned for a long time, what might put them at risk within the adults’ detention places¹²⁴.

► Lack of rehabilitation programs for juveniles. Institutions specified for welcoming urgent cases of children at mistreatment on the part of their families are not yet established.

► Structural problems faced by children such as trafficking or begging are not effectively addressed.

► Weakness of the juvenile refugee protection. None of privacy towards these juveniles is provided for in the law. As well as, the absence of following-up the arrested refugee child on the part of the Juveniles Protection Union¹²⁵.

In its concluded observations issued in 2017 to the Lebanese State, the CRC indicates in its comment no. 10 in 2007 on the rights of the child in juvenile justice, and stresses on the state party to harmonize the juvenile justice system therein with the convention¹²⁶.

122 <https://www.hrw.org/ar/report/2015/01/19/287652>

123 <http://www.legal-agenda.com/article.php?id=689>

124 This observation does not mean the jails since there are private jails for juveniles. It means the detention places such as police stations that include both adults and juveniles.

125 These observations, which are organized for the necessities of this report, are extracted from focused individual and group interviews.

126 For more information, please review the concluded observations submitted by the CRC to the Lebanese State in 2017, review the website of the OHCHR on the following link: https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolNo=CRC%2fC%2fLBN%2fCO%2f4-5&Lang=ar

Recommendations:

At the legislative level, the Lebanese State shall amend Law No. 2002/422 to guarantee more powers for the juvenile justice and to ensure specialized judges on juvenile issues.

At the level of building capacities, it is important to work with different stakeholders in order to enhance the capacities of juvenile courts and judges, law enforcement officers, lawyers, attorney members in juvenile crimes, social workers specialized in juvenile affairs, and to improve their competencies and increase their number. In addition to providing adequate resources in social care and judicial sectors, and to promote the capacities and resources of organizations related to juvenile protection issues. It is necessary to adopt a complete platform about the juveniles in the judicial lessons' institute and not a sole article. As for the law enforcement agencies, the presence of special juvenile police or a specific unit in the police is therefore important. As well as guaranteeing the attendance of a lawyer with minors during the primary investigation and his appearance before the juvenile judge.

At the level of services, a center, in which juveniles are detained when committing offenses at age above 15, shall be established. Male and female children must be released from jails because both the juvenile suit at Roumieh prison and the initiative center are prisons for juveniles that are subject to the prisons' system and are not suitable, at all aspects, to receive minors. Thus, advanced and appropriate rehabilitation programmes for juveniles, who are in conflict with the law, shall be developed in line with standard minimum rules. The files that are presented before the juvenile justice must include a psychological evaluation; and psychological support services should be provided to children/ juveniles, who suffer from psychological disorders, through specific institutions that receive them.

At the level of protection mechanisms, the Lebanese State shall promote the role of the Supreme Council of childhood in its capacity one of the child protection mechanisms in Lebanon.

At the level of the protected persons, means of protecting juveniles, who are in conflict with the law or at risk from refugees, shall be promoted.

Section 4. Obstacles to women's access to justice

The concept of gender justice goes beyond the traditional concept that limits the efforts of equality on the elimination of all forms of discrimination between men and women. It includes the element of accountability enforcement and seeks effective accountability mechanisms that ensures the limitation of discriminatory procedures.

“Muscat Declaration on Gender Justice in the Arab Region”, 2016.

This concept considerably shifts the gender equality approach by providing for States' commitment to protect women, to guarantee their human rights and to provide them with the opportunity to achieve justice based on gender justice. This section would present the general obstacles to women access to justice in Lebanon, in addition to some women/girls issues among specific groups and who experience redoubled obstacles and challenges. We realize that the analysis of this report's section itself needs a further consideration; however, the report can only stress on the most prominent challenges, problems, and violations related to the most marginalized women due to their large number and complexity and lack of space.

XII. General Obstacles

Despite various formal and informal efforts, women and girls in Lebanon face many obstacles to access to justice at three levels: individual, community and institutional.

A. At the individual level

Women's capacities to claim their rights are limited as a result of interrelated factors, most notably:

- ▶ Restriction of women's right to expression because they are subject to discrimination under certain laws and are culturally discouraged to claim their rights. Women who try to seek divorce and access to the judicial system are dishonoured. Women are left to believe that violations of their rights, especially gender-based violence, are normal and worthy sometimes. As a result, women are under pressure to avoid complaining about such violations and protect their honour and their familial reputation. These issues are seen as «special issues» that do not require general (or judicial) intervention, all of which lead to the normalization of violence.
- ▶ Women are not well informed about legal systems and protective measures.
- ▶ Weak women's ability to afford legal services and litigation especially since legal proceedings are long amid the wage gap, employment and hiring opportunities provided for women and men.

These pressures are forcing many women to drop the proceedings due to the difficulty of their economic independence or for lack of supporting social networks in case of divorce.

B. At the community level

Despite the efforts of civil society organizations to combat discrimination against women and to address the stereotypical roles of women, gender-based social norms are still rooted in Lebanon, whether in marital and family relations or in public fields. These discriminatory beliefs continue to hinder women's access to justice by undermining their willingness to seek justice.

In 2017, KAFA violence & exploitation launched the results of the first national report on the behaviour, knowledge and attitudes of Lebanese women/men towards domestic violence¹²⁷. According to the report:

- ▶ Men and women recognize domestic violence through media, TV news, and interactive panels; and considerably through social media.
- ▶ One third of population know about the law on the protection of domestic violence, while %14 of them pretend their knowledge about the concept of protection orders.
- ▶ %44 of Lebanese (males and females) know women who have been victims of domestic violence.
- ▶ Almost every Lebanese, aged between 20 and 50 years, knows approximately 1.7 victims of domestic violence.
- ▶ %55 said that they report to the police in case they witnessed violence.
- ▶ %44 said that they had noticed an improvement in the way in which the police is dealing with cases of domestic violence.
- ▶ About half of the Lebanese said that they advised the victim of domestic violence to file a complaint, %13 of them advised her to be patient and %36 said that resorting to the family was also a solution.

Obstacles to access to justice are not only limited to domestic violence, but also deal with women's access to justice under personal status laws and their request of protection from human trafficking. However, these numbers and percentages help formulating the indexes of the position of these obstacles and problems.

C. At the institutional level

I. Judiciary

One of the recommendations of the Committee on the Elimination of Discrimination against Women to the Lebanese State is the establishment of measures in line with its general recommendation No. 2015) 33) on women's access to justice.

Many Lebanese people agree that the work of the judiciary is weak, without neglecting the importance of the role of this authority to protect women's rights and individual and public

¹²⁷ For more information about the report's results, please review the following link: : <http://www.kafa.org.lb/StudiesPublicationPDF/PRpdf-93-635951276748822776.pdf>

freedoms for the marginalized groups among which are women. It is important to mention the pioneering experience acquired by the Lebanese judiciary in dealing with domestic violence issues and in experiences of many courts that did not separate judiciary from the social courses through pioneering jurisprudences that have championed the social issues. According to the report of KAFA violence & exploitation, %42 of the Lebanese people who are mentioned in the report do not trust the religious courts, while %38 of them do not trust civil courts due to corruption and unjust laws against women as they said.

II. Cost

The first principle states that access to justice services should be for free; however in Lebanon the economic factor is one of the most important obstacles to women's access to justice. The second principle is the institutionalization of legal aid services and the provision of lawyers' services in a sustainable manner so as to meet the needs of women and ensure that such services are timely and effectively provided at all stages of judicial or quasi-judicial proceedings¹²⁸. Many gaps are the following:

- ▶ The cost of financial fees is high in spiritual courts. These fees are discretionary and are often higher as they depend on the appointment of a lawyer, the lengthy lawsuits and fees that women are obliged to incur such as forensic fees or the transfer duty paid to the enforcement officer for the execution of judgments and judicial decisions.
- ▶ Some courts start addressing the problematic of lawsuit cost through exempting women from expenditures fees. However, it is still an exception in few courts. Mostly, spiritual courts do not have allocations to support women.
- ▶ Religious institutions provide adequate and sustainable legal or social support for women who initiated proceedings before spiritual courts. In addition, it is a need that local NGOs have been unable to meet due to the lack of material and human resources. Moreover, women often have multiple legal references: criminal, civil, and sectarian, in resolving disputes over personal status and claiming their rights, given the multiplicity of jurisdictions and the complexity of the cases¹²⁹.
- ▶ Despite the existence of the so-called «legal aid» ensured by the Bar Association in Beirut and Tripoli, many problems are standing in the way and prevent it from being considered as a factor in women's access to justice before the various courts¹³⁰. The aid is not designed in a gender-neutral manner, and not all women are aware of its existence and the relevant procedures to receive such aid. In addition, limited financial resources hinder the sustainability of legal escort of the file, and makes the difficulty of covering all files more complicated; and finally the problematics that are related to not allocating a large number of lawyers to which they are assigned.

III. Law enforcement agencies

In 2013, the Directorate General of Internal Security Forces, in cooperation with civil society organizations, launched a campaign in order to strengthen the role of the Directorate General of Internal Security Forces in preventing domestic violence and to adopt the concept of «social police». The Directorate's commitment was translated into a training provided to its officers and personnel. The Directorate issued a service memorandum on May 2013, 20 providing for «the fundamentals of communication and intervention by Internal Security Forces officers with respect to domestic violence complaints» and thus set the standards for the intervention of the officers

128 See Oxfam study, "The Cost of Justice: Exploratory Assessment on women's access to justice in Lebanon, Jordan, Egypt and Yemen", prepared by Sarah Barakat, April 2018

129 <https://www.hrw.org/ar/report/2015/01/19/287652>

130 <http://www.legal-agenda.com/article.php?id=592>

of the Internal Security Forces when they receive complaints or encounter women survivors of domestic violence.

The security forces play a crucial role in addressing gender-based violence, but there are still some gaps that need to be addressed.

- ▶ The institutions of judicial control, the most prominent of which are the General Directorate of the Internal Security Forces and the General Directorate of Public Security, lack financial and human resources, both in terms of the number and specialization of employees.
- ▶ It is also worth mentioning the delay in updating the regulatory laws, namely Law 1990/17 and Decree 1959/139.
- ▶ There is gender blindness in the application of criminal investigation procedures. In fact, a large number of law enforcement officers do not deal with gender-based violence cases from a gender perspective that takes into consideration the survivor's status and needs and the offense's specificity.

IV. Interventions

Despite the efforts of relevant non-governmental organizations to provide legal assistance to Lebanese women and Syrian refugees on Lebanese territory, there are still some problematics, such as:

- ▶ Lack of financial and human resources and the sustainable delivery of these services.
- ▶ Weak monitoring and documentation of violations related to gender issues.
- ▶ Insufficient provision of rehabilitation services to the victims of gender-based violence according to recent and developed approaches.
- ▶ High cost of psychiatric services to the victims of gender-based violence.
- ▶ Lack of services mapping.
- ▶ Lack of disaggregated data on the basis of gender at a national level.
- ▶ Poor coordination between various sectors, both governmental and non-governmental, where cooperation is only limited to the referral pathway between actors.
- ▶ Poor function according to human rights approaches on the part of lawyers and legal service providers who are not fully aware of the laws protecting women and in providing legal services according to gender and human rights approaches.

According to the United Nations Handbook for Legislation on Violence against Women, States are called upon to «ensure adequate medical, legal and social services that take into account the needs of victims to strengthen the administration of criminal justice in cases of violence against women¹³¹».

Recommendations:

At the level of statements, many actors who are working on access to justice shall formulate the statements, which should be classified based on gender and comprehensive to several sectors, at a national/local level.

At the level related to law enforcement devices, police and law enforcement agencies shall be trained based on the human rights approach in order to ensure security, confidentiality and privacy when reporting and responding to gender-based violence cases.

131 [http://www.un.org/womenwatch/daw/vaw/handbook/Handbook%20for%20legislation%20on%20VAW%20\(Arabic\).pdf](http://www.un.org/womenwatch/daw/vaw/handbook/Handbook%20for%20legislation%20on%20VAW%20(Arabic).pdf)

Unify the training curricula on how to deal with cases of gender-based violence. The training should include all elements, staff and officers of security and military institutions in Lebanon (including the army, internal security, general security, State security, customs and municipal police). In addition, inspection mechanisms must be promoted within security institutions to monitor any abuse that can be classified as gender-based violence.

At the level of judicial devices, it is necessary to work on multiple level such as speeding up of trials in gender-based violence files and promoting gender approached to all actors in the religious courts.

At the strategic level, the Lebanese State shall achieve gender balance within security and judicial institutions, both in terms of number and in assuming leading positions, and shall address social factors that inhibit women's access to justice, such as discriminatory positions, gender stereotypes, prejudice and sexism. As well as strengthen coordination and synergies between local and international frameworks to ensure better quality services and design strategies according to the needs.

At the level of provided services, many actors shall work on achieving the following steps:

- ▶ Strengthening the human rights based approach among legal, psychological and social service providers to the victims of gender-based violence.
- ▶ Addressing the obstacles related to legal aid whereas to be one of the government's missions and not that of the Bar Association, in addition to the necessity of its formulation from a gender perspective.
- ▶ Providing forensic services, strengthening its human and financial resources and developing it from a gender perspective; especially that the Ministry of Justice started to work on promoting the forensic department.
- ▶ Providing mental health services for women victims of violence. The cost of receiving psychological health services is high in Lebanon, i.e the limitation of the capacities of the majority of gender-based violence survivors to obtaining these services.
- ▶ Disseminate knowledge of gender-based violence and discrimination issues. Many actors must mainstream social knowledge in all communities and regions through protective laws and by means to make use of them, as well as disseminating championed media to women's issues away from commodification and stereotyping. In addition, the role of media shall be promoted to raise awareness on women's issues.
- ▶ Establishing a national fund to support victims of domestic and sexual violence and all forms of gender-based violence.

XIII. Obstacles to particular groups' access to justice

A. Women in prison

Decree No. 14310 regulates prisons and detention places. When the legislator used the term «prisoner» in drafting most articles of the decree, he was referring to both females and males. This was confirmed by article 23 of the decree, which stated that all its provisions also apply to women prisoners¹³².

132 Article 23: "All provisions of this Law shall apply to women prisoners."

However, the decree devoted one section to women under the title of «women's prisons», which included only six articles, mostly related to how these prisons should be guarded and managed, as well as some other sporadic texts dealing with visits to women prisoners and the rights of pregnant women, without establishing any special rules in this regard.

The Lebanese law does not provide for mainstreaming any gender-related matter within the prison:

- ▶ No reference to the importance of providing primary services to meet more complex health needs and related to reproductive health and sexual health needs of women.
- ▶ Lack of reference to the need to provide psychological health services.
- ▶ All matters related to pregnancy, nursing, medical care, housing and children's needs are not addressed.
- ▶ The text does not provide for children born in prison.
- ▶ Lebanese law does not provide for any matter related to the status of foreign female prisoners, stateless women or refugee women.
- ▶ Lebanese law does not adequately address the issue of rehabilitating women prisoners through education and employment¹³³.

Recommendations:

At the legislative level, law of prison rules shall be amended taking into account the special needs of women in relation to:

- ▶ The right to health in terms of comprehensive health examination, as well as sexual, reproductive, preventive and psychological health of female prisoners.
- ▶ The right to healthy food while taking into consideration pregnant and breastfeeding women prisoners.
- ▶ The right to personal hygiene in terms of providing the necessities of women prisoners such as hygienic pads, towels, clothes and others.
- ▶ Provision of legal aid to reduce the problems of arrest and detention.

At the strategic level, the Lebanese State shall develop strategic plans and policies for prison reform in line with the United Nations Standard Minimum Guidelines, particularly the Bangkok and Riyadh Rules. It shall allocate financial resources in the prison budget on a regular basis to train female/male prison staff (guards, nurses and doctors) to adopt human rights and gender approaches, provided that gender awareness should be one of the employment requirements for the different positions of prison administration. It is important to conduct researches on the crimes committed by women and on the effects of detention on women, which contributes to the development of programs and policies that meet the needs of social integration.

B. Refugees

Lebanon is not among the countries that committed to the 1951 Refugee Convention or its 1976 Protocol. This means that the legal protection granted to refugees and asylum seekers in Lebanon is limited. However, this does not mean that Lebanon is not committed to the legal principles resulting from the various charters and treaties to which it is a party and which require the State to adopt protective measures in order to ensure that refugees are safely received and to protect them from forced return and respect their human rights.

¹³³ A comparative legal study on women's prisons in Lebanon prepared by the lawyers Maya Mansour and Rita Ghawi as part of the project "Promoting Human Rights Practices in Women's Prisons in Lebanon", organized by the Lebanese Democratic Women's Gathering, Dar Al Amal, Caritas, the Foreigners' Center in partnership with Diakonia and with the support of the European Union, 2013.

As for Palestinian refugees, they have been living in Lebanon for more than seventy years, but the Lebanese legislator has not yet provided a legal definition to those refugees. They are administratively divided into three categories:

- ▶ Refugees registered with the Ministry of Interior and Municipalities, the Directorate of Political Affairs and the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA).
- ▶ Refugees registered with the Directorate of Political Affairs at the Lebanese Ministry of Interior but are not registered with UNRWA.
- ▶ Refugees who are not registered with the Lebanese State or UNRWA (loss of identity card).
- ▶ A fourth category has been recently added, namely the Palestinian refugees from Syria¹³⁴.

Lebanese-Palestinian Dialogue Committee has initiated, in partnership with the Lebanese Central Bureau of Statistics and the Palestinian Central Bureau of Statistics, to promote a comprehensive census project of population and dwellings of Palestinian camps or groups in Lebanon¹³⁵ amid the absence of official statistics on the number of the Palestinian refugees in Lebanon. Census reached that there are only 174.422 Palestinian refugees resident in Lebanon, and 18.601 refugees have displaced from Syria to Lebanon¹³⁶.

Palestinian refugees face a number of violations against their legal personality and lack of protection: the right to freedom of movement, residence and travel, the right to work and exercise free professions, the right to ownership, restrictions on the registration of a property belonging to a foreigner married to a Palestinian refugee, the right to adequate housing, the right to health, the right to freedom of opinion and expression, the right to form associations and other issues, which affects their overall living conditions and prevent them from enjoying basic human rights.

In 2005, the Lebanese Minister of Labour issued a memorandum allowing Palestinian refugees to obtain a work permit for some jobs that were not regulated by the free trade unions and which were difficult to obtain previously. But the memorandum prevented them from practicing more than 30 professions. The Lebanese State has also amended Article 59 of the Labour Law and Article 9 of the Social Security Law, but has not issued yet any practical decrees for both laws, which made their application subject to the decisions of the successive ministers of the Ministry of Labour. It is mentioned that a large number of Palestinian workers pay an affiliation fee to the National Social Security Fund without being able to benefit in return from any coverage or contributions on the part of the fund.

Syrian refugees were subject to the noble UNHCR's mandate of refugees in cooperation with the Lebanese State. While Palestinian refugees from Syria were subject to UNRWA, which is responsible for providing them services for being registered on its lists and in its registrations in Syria territory. They are not limited by a fixed and final number. They are facing redoubled problems due to the economic situation and the legal and administrative obstacles they are encountered. About %90 of the Palestinian refugees from Syria live below the poverty line in Lebanon, and %95 of them are nutritionally insecure¹³⁷.

At the same time, with the beginning of the Syrian crisis, hundreds of thousands of Syrian refugees entered Lebanon but no accurate statistics about their numbers exist. Thus the number registered with the United Nations High Commissioner for Refugees (UNHCR) does not reflect the total amount of refugees.

134 Report of the Alliance of Human Rights Organizations submitted in November 2015 to the Human Rights Council in Geneva as part of the mechanism of the Universal Periodic Review on the situation of human rights in Lebanon.

135 <http://www.lpdc.gov.lb/DocumentFiles/CensusPDFpanflet.pdf>

136 For more information about the census and its results, please visit the website of the Lebanese-Palestinian Dialogue Committee in Lebanon: <http://www.lpdc.gov.lb/>

137 <https://www.unrwa.org/ar/>

In 2015, the Lebanese Government prepared a crisis response plan addressing three areas:

- ▶ Providing material and legal assistance to the most vulnerable among displaced persons from Syria and the poorest among Lebanese citizens.
- ▶ Providing vulnerable groups and sites with basic services and enhanced protection.
- ▶ Supporting national institutions to maintain social stability¹³⁸.

The procedural obstacles associated with the legal status of refugee women remain the most important impediments to access to the formal justice system¹³⁹.

▶ The Lebanese State adopts the principle of deportation to any refugee; though refugees are exposed to a collection of violations due to their lack of legal status, including labour abuses, sexual assault and their incapability of resorting to authorities and seeking protection¹⁴⁰. The Lebanese State has adopted procedures of various courses related to regulating Syrian refugees' legal status of which the decisions adopted in the beginning of year 2015 were the most prominent and most dangerous that restricted many entry, exit and residence procedures. On 2018/2/8, the State Council of Lebanon issued a decree confirming that the General Directorate of Public Security is not entitled to amend the conditions for entry and residence of Syrians in Lebanon, as long as this power is restricted, under the law, only to the Council of Ministers. Accordingly, the Council revoked the decision of the Directorate General of Public Security issued in 2015, which prevented the entry of many Syrian citizens to the Lebanese territory and deprived others of regular residence or renewal of their residence in Lebanon¹⁴¹n. This decision is still unimplemented and no data or information show about the means of its implementation or legal effectiveness.

▶ Refugee women face several challenges such as : lack of privacy inside the places of refuge especially in tents, remorse for exit from Syria, suffering to ensure food for their children, exposure to economic exploitation, exposure to sexual harassment and abuse, increase of domestic violence's frequency, female children marriage, unstable legal status, and many other problems that are worsen due to the sense of uprootment and losing the vital, secure and familiar area, as well as being present in a strange world that lacks the ordinary life viability and poor personal capability to take decisions¹⁴².

▶ At the level of interventions, many actors refer to the lack of study on the specific needs of refugee women and the development of projects and programs outside the framework of international security and peace-related resolutions, namely Security Council Resolution 1325 and subsequent resolutions.

▶ The Humanitarian response plan launched by the United Nations in order to deal with the crisis of refugees in Lebanon experiences the lack of funding as a result of burnout to which the providing authorities were exposed due to providing aids during conflicts and wars that are renewed in more than one state in the Arab region.

▶ Finally, gender mainstreaming in the interventions of organizations working on education and health issues is weak, which affects women's access to services and information related to gender-based violence. In addition, media is not providing enough support to the issues of gender-based violence affecting refugee women and girls. This fact needs to be taken into consideration, as media is supposed to be used as a tool to raise awareness and encourage advocacy. The share of Syrian women in the media coverage of Syrian refugees in Lebanese newspapers is only 3 percent, while this share rises to 20 percent in television reports and coverage¹⁴³. Moreover, a problematic is raised in many observations in the coverage approach of refugees' news in the Lebanese media.

138 http://lcrp.gov.lb/pdf/full_ar.pdf

139 International Alert, "Justice for stability: Addressing the impact of mass displacement on Lebanon's justice system", 2017. https://reliefweb.int/sites/reliefweb.int/files/resources/Lebanon_JusticeForStability_EN_2017.pdf

140 <https://www.hrw.org/ar/news/2016/01/12/285110>

141 <http://www.legal-agenda.com/article.php?id=4286>

142 Policy paper prepared by ABAAD in cooperation with Diakonia in Lebanon about the status of Syrian Refugee Women in Lebanon.

143 www.albaladonline.com/ar/NewsDetails.aspx?pageid=420563

The Committee on the Elimination of Discrimination against Women adopted in 2010 a general recommendation on the status of women within the framework of conflict prevention as well as conflict and post-conflict situations. The recommendation focuses on the need for a coherent and integrated approach that includes the implementation of the Women, Peace and Security Agenda in the broader context related to the implementation of the Convention and its Optional Protocol. It also stresses on the need for national plans of action and strategies for the implementation of Security Council Resolution 1325 and subsequent resolutions to be in line with the Convention.

The CEDAW Committee advised in 2015 the Lebanese State to:

Adopt measures related to refugees' status in line with its general recommendations No. 32 (2014)) and No. 2015) 33).

Recommendations:

At the legislative level, laws and national provisions shall be amended to ensure granting the Palestinian refugees civil and labour rights. It is also important to guarantee the implementation of the protective laws on the part of specific official frameworks (judicial and security) in the camps.

At the strategic level, it is necessary to integrate the issues and needs of refugees in Lebanon into plans, strategies and measures against gender-based violence at the national level. Strategies related to refugees in Lebanon shall be based on data classified on gender relating to the process on asylum's different issues in Lebanon.

At the level of services, programs for refugee women shall be planned based on their specific needs and to work on economic empowerment together with combating violence, providing psychological support and establishing the needed mechanisms. In addition to giving attention to mental health issues faced by some refugee women. Suitable measures shall be taken to control and frame marriage contracts legally and officially organized inside the camps in order to address the negative and possible impacts of these marriages such as: birth, divorce and legacy registration, and others. Therefore, sustain the legal support in terms of legal advice and representation is important.

At the cultural and social level, promoting media advocacy in accordance with the human rights based approach to gender-based violence against refugee women is therefore important. In addition to promoting legal education and knowledge among refugees.

C. Housemaids

Migrant housemaids are precluded from the protection procedures mentioned in the Lebanese Labour Law for not being included in the law; which exposes them to different types of violations and their lack of protection. In Lebanon, the valid employment contract related to the migrant housemaid is called "sponsorship system".

Such contract determines the standards of the relationship between the employer, the housemaid and the state. The sponsorship system grants the employer a broad power to determine the migrant housemaid's living circumstances and labour.

Many reports affirm that the “sponsorship system” is one of the main reasons that put the housemaids in danger of being exposed to forced labour, sexual assault and human trafficking¹⁴⁴.

► By virtue of a sponsorship system, the housemaid’s legal status is related to one employer. She can not leave work from one aspect. By virtue of this system, employers bear the total legal and economic responsibility of the expatriate employees, which makes the domestic workers subject to exploitation, abuse and forced labour. Many of them are deprived of their fundamental rights such as: salaries, leaves, resting days and the freedom of forming associations. In addition, housemaid’s employers openly confiscate their passports and identification papers¹⁴⁵.

► At the structural level, the sponsorship system, as a restricted system, promotes the dynamics of the relationship between “server and served”, dependency, and power balance dysfunctional between Lebanese employers and migrant housemaids. It largely hinders their opportunities of changing their labour. In the same context, Sponsorship system negatively affects the opportunities of national institution’s intervention for employment and its function and also restrained it. It allows the establishment of recruitment offices in different Lebanese regions while the Lebanese State should have reinforced the capacities of these institutions to be responsible for the recruitment process of migrant workers. Hence, such recruitment offices are one of the sponsorship system links and the main beneficiary thereof due to the great financial income through which they earn.

► In case of running away from the employer’s house and the expiry of the residence term validity, the housemaid’s “illegal residence” status exposes her to a sequence of violations, which starts with fear of submitting any legal claim related to her status or to any violations she has been exposed to. In addition to arrest as soon as they catch her and then getting her departed without granting her time neither to settle her status, fulfilling fees nor searching for a new employer. This fear is justified in the accredited procedures and the intimidation policies adopted against the housemaid by directing convictions for committing crimes or breaches. Yet, it is not limited to intimidation but also to the conviction of an offense that is not punished for in law, which is “running away from home”.

► Such status has always contributed in weakening the legal protection of housemaids, as there is no guarantee to provide them: free legal services, necessary mechanisms that allow them to submit complaints, supporting procedures of speedy disposal, or legal resources in their native language. According to the International Labour Organization, the sponsorship system has transformed labour to one of the forced labour forms. It reforms the regulations of granting visas for migrant workers that reflects the benefit on the economics of the countries that welcome them and on the migrant workers themselves¹⁴⁶. It is important to mention that the problem of the housemaids is not only limited to the existence of a sponsorship system and all the violations which it establishes; but goes beyond correlative with structural problems at the level of a need to reform the Lebanese Labour Law and the social security law, in addition to the absence of a vision that establishes the groundwork of social protection for all workers. The most prominent of this all is ensuring that all workers in Lebanon are enjoying equal rights relating to labour. Regulating laws and policies related to labour and migrant workers is therefore significant, in condition that such regulation starts from human rights approaches, and establishes an effective and comprehensive protection for workers from all expected violations.

According to the concluded observations issued by the Committee on the Elimination of Discrimination against Women to the Lebanese State in 2015, the Lebanese State shall draft the policies and measures in line with the general recommendation no. 26) regarding the migrant housemaids

144 Kafa Violence & Exploitation, reform of the sponsorship system related to the migrant housemaids towards an alternative system in Lebanon, 2012.

145 International migration report of year 2015, migration, displacement and development in a variable Arab region.

146 http://www.ilo.org/beirut/media-centre/news/WCMS_553087/lang--ar/index.htm7

Recommendations:

At the international legislative level, the Lebanese State shall endorse the International Labour Organization Convention no. 2011) 189) regarding the adequate labour of domestic workers, as well as the Convention on the Rights of All Migrant Workers and Members of their Families.

At the national legislative level, the Lebanese Labour Law shall be amended so that its provisions include housemaids or it is required to adopt a specific law that regulates their labour and residence in Lebanon according to the international standards and principles in a way that promotes their protection for being migrant women workers from any form of discrimination and exploitation.

At the level related to measures, it is required to set up a recruitment mechanism for domestic workers, taking into account the international norms. In addition, establishing any policy related to labour in Lebanon must be established upon gender-based classified data.

D. Women with disabilities

In its general recommendation No. 18, the Committee on the Elimination of Discrimination against Women stressed that women with disabilities may be subject to double discrimination on account of gender and disability, and are considered a vulnerable group since multiple discrimination reaches all the aspects of their lives. Lebanon has not acceded to the Convention on the Rights of Persons with Disabilities. In 2000, at the national level, law no.220 has been promulgated. Persons with disabilities in Lebanon are still exposed to different human rights violations whether in education, health or labour. These courses are full of obstacles that prevent enjoying rights equally. According to the workers on the rights of persons with disabilities in Lebanon, many reasons lead to these violations, most of which are:

- ▶ A person with disabilities, as it is stated in the law no.220, is a person who does not respond to the social model and the international principles of the Convention on the Rights of Persons with Disabilities ¹⁴⁷.
- ▶ Law enforcement no.200/220 has been disabled in the absence of the relevant implementation decrees till the date of drafting this report, which is negatively reflected on the persons with disabilities and depriving them of their most basic rights. Problematic in Lebanon is not only limited to not acceding to the International Convention and in the absence of implementation decrees of law no.2000/220, but it goes beyond it to include the absence of assisting measures to provide an appropriate environment to enjoy human rights¹⁴⁸.
- ▶ Stereotypes that control the process of interaction with persons with disabilities in Lebanon, which reflects enjoying humanitarian rights. Services are absent as well as the social solidarity.
- ▶ Domination of medical model or service charitable model on account of the jurist model in pressure and claim rights of persons with disabilities.
- ▶ Lack of integration of the issues of persons with disabilities' rights in policies and strategies related to different issues. Weakness of integration of the social perspective in interferences and policies of different actors working on the issues of persons with disabilities' rights in Lebanon.
- ▶ Weakness of integration of the issues of women/girls with disabilities in interferences and policies of different actors and stakeholders working on gender-based equality and justice issues in Lebanon.

147 A Handbook prepared by the Lebanese Union of Persons with Motor Disabilities to the benefit of the Institute of Feminine Studies in the Arab World in the American Lebanese University in Beirut year 2018 within a basic life skills programme.

148 Comparison between law no.220/2000 and the International Convention on the Rights of Persons with Disabilities – Dr. Mohamad Jamal Baroud - Lebanese Physical Handicapped Union.

Recommendations:

At the international legislative level, Lebanon shall accede to the Convention on the Rights of Persons with Disabilities. In the international context, periodic reports submitted to the Committee on the Elimination of Discrimination against Women shall be included data on the issues of women and girls with disabilities in Lebanon.

At the national legislative level, it is required to issue implementation decrees of law no.2000/220.

At the level of services, many actors and stakeholders shall take specific measures to ensure the obtenance of women and girls with disabilities equal access to humanitarian rights, especially education, labour, health services and social security, in addition to guaranteeing their participation in all fields of cultural, social and political life. Moreover, many actors and stakeholders shall take specific measures that include the enjoyment of women and girls with disabilities of legal protection when being exposed to gender-based violence. It is important to promote capabilities of different actors working on disabilities issues related to gender-based violence and discrimination issues.

E. Elderly women

While both men and women experience discrimination as they become older, elderly women in Lebanon experience ageing differently, during which age becomes one of the factors because of which women experience intersectional discrimination. The impact of gender inequality is exacerbated in old age and is often based on deep-rooted cultural and social factors. The discrimination that elderly women experience is often a result of discrimination in the allocation of resources, maltreatment, neglect and limited access to basic services.

In Lebanon, gender-based violence and discrimination exposed to elderly women is a link between the discrimination and violence system presented in this report. However, it is exacerbated for structural reasons related to: -1 poor public policies that aim to the protection of elderly persons and to take into account their special needs and circumstances, which require specific interferences; -2 poor analysis of violence forms and stereotypes that they may experience.

Discrimination against elderly women varies due to cultural, social and economic circumstances, in addition to lack of equal access to opportunities. Thus, discrimination that elderly women experience is interfered with other forms of discrimination based on disability, sex, race or poverty level and other factors, because of which elderly women become more vulnerable in countryside and asylum surrounding.

Elderly women experience a great neglect due to their health problems. The position of health sector in Lebanon and the weakness of good and comprehensive health services for all people shall not be ignored. Hence, health sector experience the limitation of health services ensurance for people who are not included in any of the health securing sectors, in addition to the high cost of health services.

While searching in elderly women issues in Lebanon, few gaps appear as follows:

- ▶ Weakness of the integration of issues of women and girls with disabilities in interferences and policies of different actors and stakeholders on gender-based equality and justice in Lebanon.
- ▶ Weakness of Lebanon's fulfillment of its international obligations towards elderly persons, especially Vienna International Plan of Action on Aging, Beijing Platform for Action and the general comment no. 27 issued by the Committee on the Elimination of Discrimination against Women¹⁴⁹, as well as the principles of the United Nations related to elderly persons¹⁵⁰. In addition to Madrid International Plan of Action on Aging and the Political Declaration adopted in the General Assembly of the United Nations on Elderly in 2002. Both determine main turning points to address the fundamental challenge to population aging in the world. In the same context, Madrid International Plan of Action shall be reviewed and assessed every five years. The second review and the assessment process (Madrid 10+) started in October 2011¹⁵¹.
- ▶ Poor recent gender-based classified data about elderly persons in Lebanon. In addition, data that is classified at the local and national level is absent and the intersections that affect the position of elderly women such as: poverty, residence in countryside, different social and cultural factors and others, are neglected.
- ▶ Weakness in the integration of the issues of elderly women in the interferences and policies of different actors and stakeholders on gender-based equality and justice in Lebanon.
- ▶ Weakness in the integration of the issues of refugee elderly women in the interferences and policies of different actors working on asylum issues.
- ▶ Weakness in the intergration of gender-based perspective in policies and strategies related to elderly persons in Lebanon.
- ▶ The Lebanese State does not take sufficient temporary measures that help in their protection and ensure their rights.
- ▶ Poor welfare policies provided to elderly persons in Lebanon due to the lack of resources and capacities of these centers for receiving a large number of elderly persons, in addition to the high cost in order to get benefit of the services provided by these institutions. Finally, the Lebanese State lacks control over these institution's labour and performance.

Recommendations:

The Lebanese State and many actors shall work on integrating the issues of elderly women in Lebanon in all legislations, policies, strategies and interferences through taking a collection of measures, some of which are:

- ▶ Data collection about elderly persons provided that it should be classified on gender basis, in addition to the necessity of its inclusion to both local and national dimensions.
- ▶ Borden the scope of the existence of intitutions that provide services for elderly persons. The results of the drafted national report could be considered about the services provided to elderly persons in Lebanon in 2010¹⁵².
- ▶ Conducting studies related to the status of elderly women in Lebanon, and in-depth analysis of gender-based violence and discrimination against them.
- ▶ Elimination of negative stereaotypes and modification of cultural and social patterns of behavior harmful and detrimental to elderly women, seeking to limit the physical, sexual, psychological, moral and economic assault that elderly women experience, including whom are with disabilities due to the negative stereotypes and cultural practices.

149 <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G10/472/51/PDF/G1047251.pdf?OpenElement>

150 <https://www.ohchr.org/AR/ProfessionalInterest/Pages/OlderPersons.aspx>

151 <https://www.un.org/development/desa/ageing/madrid-plan-of-action-and-its-implementation.html>

152 For more information, review the national report about the services provided to elderly persons in Lebanon, UNFPA in Lebanon in cooperation with the Ministry of social affairs, 2010, as well as reviewing a collection of reports drafted by UNFPA on elderly persons' status in Lebanon, on the following link: <http://www.unfpa.org.lb/Publications.aspx?typeofpublication=1&thematicarea=13&yearofpublication=a&page=1>

- ▶ The Lebanese State and many actors shall pay attention to the violence that elderly women experience, and find mechanisms that empower elderly women to request compensation and prosecution when exposing to gender-based violence and discrimination.
- ▶ The Lebanese State shall adopt a comprehensive policy to health welfare aiming to the protection of health needs of elderly women in line with the committee's general recommendation no. 24 of year 1999 on women and health. This policy shall guarantee the provision of health welfare in affordable cost for all elderly women.
- ▶ Find mechanisms to protect elderly women, especially those refugees, with disabilities and stateless.
- ▶ Inclusion of the specialization of "medicine and welfare of elderly" in universities.

Conclusion

“Justice is meaningless amid the existence of discriminatory laws and policies that are neutral from gender perspective not drafted according to human rights approaches. Also, Gender-based equality is meaningless out of the context of ensuring women and all marginalized groups’ access to justice.” This phrase may summarize the most prominent outputs of this report.

Identification with the international context related to human rights is still formal. Thus, Lebanon’s international obligations were not translated to the cancelation of all legislations, policies and practices including gender-based discrimination. Fragmentation does dominate whether in approach and speech, or in choosing issues exclusively. In addition, working outside the context of a clear view of the gender-based equality and justice is a view that mainly depends on human rights approaches.

The nature of the political system that the Lebanese Constitution established is still the first obstacle in front of any real change. Therefore, an intersectional comprehensive view to the relationship between the private, societal and institutional space is absent in rooting the gender-based violence and discrimination, which reflects on reading approaches of the problematic in its depth and complexity and naturally affects on interferences. Such interferences neglect the economic, religious, cultural and intellectual aspect and consider that amending legislations as well as empowering women are both the best courses to achieve gender-based equality and justice amid the lack of real process to change the economic, social and political structures, which root gender-based equality and justice.

The aforementioned has led to the domination of gender neutrality over different laws and policies in conjunction with the limitation of owning analytic and integration tools from gender perspective. In addition, it reflects a weakness in coordination and alliances, therefore it is necessary to work on strategies that promote along-term joint action.

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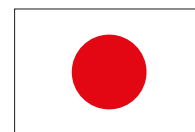
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