



Lebanon Gender Justice & The Law

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United Nations Development Programme,
One UN Plaza, New York, NY, 10017, USA

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Lebanon

Gender Justice

Assessment of laws affecting gender equality and protection against gender-based violence

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ACRONYMS

CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CEDAW Committee	UN Committee on the Elimination of Discrimination against Women
ESCWA	Economic and Social Commission for West Asia
FGM/C	female genital mutilation / cutting
GBV	Gender-based violence
ILO	International Labour Organization
IOM	International Organization for Migration
NGO	Non-government organization
OECD	Organisation for Economic Co-operation and Development
SDGs	Sustainable Development Goals
UNDP	United Nations Development Programme
UNESCWA	United Nations Economic and Social Commission for West Asia
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNFPA	United Nations Population Fund
UNHCR	United Nations High Commission for Refugees (UN Refugee Agency)
UNICEF	United Nations Children's Fund
UN Women	United Nations Entity for Gender Equality and the Empowerment of Women
WHO	World Health Organization
Arabic terms	
fatwa	Ruling or pronouncement on a point of Islamic law
'idda	The period a woman must observe after the death of her spouse or after a divorce during which she may not remarry
khalwa	Social mingling of men and women who are unrelated
khul'a	Divorce process initiated by the wife requiring return of her mahr
mahr	Mandatory payment by the groom or his father to the bride which then becomes her property
talaq	Repudiation; divorce process whereby the husband repudiates his wife
'urf	Custom
wali	Guardian
wilaya	Guardianship
zina	Unlawful sex, including adultery and sex between two persons neither of whom are married

INTRODUCTION

Scope

UNDP, in partnership with UN Women, UNFPA, and ESCWA, has conducted a study on Gender Justice and the Law to provide a comprehensive assessment of laws and policies affecting gender equality and protection against gender-based violence in the Arab states region.

The study is composed of an introductory piece that describes the background, rationale, analytical framework and methodology, and a total of 18 country profiles. Each country profile maps the country's key legislative and policy developments regarding gender justice.

This country profile presents the findings of the study relating to Lebanon. It provides an analysis of whether the country's laws and policies promote or impede equality between women and men before the law, and whether they provide protection against gender-based violence.

This country profile includes analysis of the following areas of the law:

- Constitutional guarantees of gender equality and constitutional protections against gender-based violence
- Status of penal codes and whether the country has domestic violence laws that address gender-based violence
- Status of personal status codes and how they impact gender equality
- Status of nationality laws and whether they ensure that women and men enjoy equal rights in relation to citizenship
- Status of labour laws and whether they provide protection from discrimination and gender-based violence in the workplace

Methodology and acknowledgements

The study was conducted in two phases:

1. A literature review was conducted between January 2016 and June 2017 of the various laws, regulations, policies, and law enforcement practices related to gender justice in each of the 18 countries, which then formed the basis of draft country profiles.
2. Realizing the limitations of desk-based literature reviews, country validation processes for each of the draft country profiles were led by UN Country Teams and national consultants. Country validation processes took place between September 2017 and August 2018 to ensure the accuracy of each country profile. These sought the views of government partners and other key national stakeholders.

This country profile was informed by inputs from consultation meetings held by the UN Country Team Gender Working Group (9 November 2017) and with legal experts and practitioners under the umbrella of the Sexual and Gender-Based Violence Task Force (10 November 2017), as well as inputs from non-governmental organizations, the Country Offices of the UN Population Fund (UNFPA), UN Development Programme (UNDP), and UN Women, independent legal experts, and consultations with the Ministry of Justice, the Ministry of Social Affairs, and the Office of the Minister of State for Women's Affairs, whose contributions are gratefully acknowledged.

The literature reviews that formed the basis of the country assessment were authored by consultants John Godwin and Nadya Khalife. They also edited the final drafts for publication after feedback from national counterparts. Their insights and hard work are recognized with gratitude. Nadya Khalife and Amr Khairy translated the outputs of the study into Arabic and English. Gratitude is also extended to John Tessitore for assistance with copyediting in English.



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Gender Justice & The Law

DOES THE LAW ENSURE GENDER EQUALITY AND PROTECTION FROM VIOLENCE?

The colour-coded representation below provides a comparison of the laws identified in the country profile with international human rights standards, the recommendations of the UN Committee on the Elimination of Violence against Women and country recommendations under the country's respective Universal Periodic Reviews.

YES

The law provides for gender equality and/or protection from gender-based violence and is substantially compliant with international standards. A green category does not indicate that the law is perfect or that gender justice in the relevant topic area has been fully achieved.

NO

The law does not provide for gender equality and/or there is no or minimal protection from gender-based violence.

Partly

Some gender justice aspects of the law have been addressed, but important gender inequalities remain.

No available data or inadequate information.

Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)

Lebanon ratified CEDAW in 1997. Lebanon maintains reservations to Article 9(2) (equal rights with respect to nationality of children), Article 16(1)(c), (d), (f), and (g) (equality in marriage and family relations), and Article 29(1) (administration of the Convention and arbitration in the event of a dispute).

Constitution

Article 7 of the 1926 Constitution states that all Lebanese are equal before the law and equally enjoy civil and political rights. However, there is no specific reference to sex or gender equality. The Constitution does not prohibit discrimination on the basis of sex or gender.

NATIONALITY LAW

NATIONALITY

Lebanese women cannot pass their citizenship to their children or to a foreign spouse in the same way as Lebanese men.

CRIMINAL LAWS

Domestic violence

Women and girls are protected by the Law on Protection of Women and other Family Members from Domestic Violence, Law No. 293 of 2014. The Law could be strengthened by clarifying whether it criminalizes marital rape. A Bill that proposes amendments to improve the Law has been drafted but is yet to be considered by parliament.

Abortion for rape survivors

Abortion is prohibited by Articles 539–546 of the Penal Code, including for women who have been raped.

Female Genital Mutilation / Cutting (FGM/C)

There are no reported cases. There is no legal prohibition.

Marital rape

Marital rape is not criminalized. The definition of rape in Articles 503 and 504 of the Penal Code of 1943 excludes forced sex in marriage.

Sexual harassment

The Labour Code does not prohibit workplace sexual harassment. The Penal Code includes the punishment of some indecent acts to which the description of sexual harassment may apply, including Articles 385, 507, 519, and 532.

Human trafficking

Law No. 164 of 2011 prohibits all forms of human trafficking. However, the law does not address prevention and protection measures.

Rape (other than of a spouse)

Rape outside of marriage is a criminal offence under the Penal Code with a minimum punishment of imprisonment for five years.

Honour crimes: Mitigation of penalty

Article 562 of the Penal Code allowed reduction of sentences for 'honour' crimes. This Article was repealed in 2011.

Sex work and anti-prostitution laws

Prostitution is prohibited by Article 523 of the Penal Code. The illegal sale of sex in nightclubs is associated with the artist visa.

Exoneration by marriage

Article 522 of the Penal Code exonerated a perpetrator of kidnapping and adultery who married his victim. Article 522 was removed in 2017. However, a perpetrator of a sexual offence against a girl who marries his victim is exonerated if the circumstances fall under Articles 505 or 518 of the Penal Code.

Adultery

Adultery is an offence under Articles 487–489 of the Penal Code.

Sexual orientation

Article 534 of the Penal Code criminalizes "unnatural" sex with one year's imprisonment. This article has been used to charge people for homosexual conduct. Some courts have ruled that Article 534 should not be used to prosecute consensual conduct between adults in private.

PERSONAL STATUS LAWS

Minimum age of marriage

There is no law prohibiting early marriage. The minimum age of marriage varies among religious denominations and disadvantages girls. Although most religious groups set the minimum age as 18 for boys, all religious groups allow girls under the age of 18 to marry.

Guardianship of children

Men have guardianship over children. Women do not have guardianship rights, with the exception of Armenian Orthodox couples.

Male guardianship over women

A male marriage guardian is required for Muslim and Druze marriages. The role of the male marriage guardian for Muslim and Druze marriages varies according to sect.

Custody of children

The mother has custody of young children. In many cases, there are conditions that limit the mother's custodial rights.

Marriage and divorce

Women do not enjoy equal rights in marriage and divorce under the Personal Status Laws. Grounds for divorce or annulment under the various sectarian Personal Status Laws discriminate against women.

Inheritance

Under the rules of inheritance that apply to Muslims, women have a right to inheritance, but in many cases receive less than men. For example, daughters receive half the share that sons receive. Male and female Christians have equal inheritance rights under the Inheritance Law for Non-Muslims.

Polygamy

Polygamy is permitted by the Personal Status Laws for Muslims. However, polygamy is rare.

LABOUR LAWS

Right to equal pay for the same work as men

Article 26 of the Labour Code of 1946 (as amended) prohibits discrimination against women in the payment of wages.

Domestic workers

Domestic workers are excluded from the protections of the Labour Code.

Dismissal for pregnancy

Employers are prohibited from dismissing women because of pregnancy by Articles 29 and 52 of the Labour Code.

Paid maternity leave

Under the Labour Code, women are entitled to 10 weeks of maternity leave paid by the employer, but this is less than the ILO standard of 14 weeks.

Legal restrictions on women's work

The Labour Code prohibits women from working in certain occupations considered arduous or hazardous.

OVERVIEW

Legal framework

International law

International treaties ratified by the Lebanese Parliament are part of the domestic legal system and have supremacy over domestic laws according to Article 2 of the Code of Civil Procedure.

Lebanon ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in 1997 in accordance with Law No. 592 of 1996. It maintains reservations to CEDAW Article 9(2) (equal rights with respect to nationality of children), Article 16(1)(c), (d), (f) and (g) (equality in marriage and family relations), and Article 29(1) (administration of the Convention and arbitration in the event of a dispute).

Lebanon has not ratified the CEDAW Optional Protocol, which means that citizens cannot access the mechanism for international adjudication of complaints lodged against Lebanon under CEDAW.

Lebanon ratified the International Covenant on Civil and Political Rights in 1972, and the International Covenant on Economic, Social and Cultural Rights in 1972, but has not ratified any optional protocols related to these two conventions.

Lebanon ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in 2000 and its Optional Protocol in 2008, and the Convention on the Rights of the Child in 1991 as well as its Optional Protocol on the involvement of children in armed conflict in 2002 and its Optional Protocol on child prostitution and pornography in 2004. Lebanon has also ratified ILO Convention No. 100 (Equal Remuneration) and No.111 (Non-Discrimination).

Lebanon is yet to accede to the Convention on the Rights of all Migrant Workers and their Families, the Convention on Domestic Workers, the Convention on Enforced Disappearances, the Convention on the Rights of Persons with Disabilities or its Optional Protocol, the Convention Relating to the Status of Refugees and its Protocol, or the Rome Statute.

At the international level, Lebanon interacts with treaty bodies through the submission of national reports. This is done through cooperation between governmental and national institutions in coordination with the Ministry of Foreign Affairs. Concluding observations on Lebanon have been issued by a number of treaty bodies.

National laws

The main laws of Lebanon relevant to gender justice are:

Constitution of 1926

Decree No. 15 of 1925 on Lebanese Nationality

Penal Code of 1943

Labour Code of 1946

Anti-Trafficking Law, Law No. 164 of 2011

Law on the Protection of Women and Family Members Against Domestic Violence, Law No. 293 of 2014 ('Domestic Violence Law')

Fifteen Personal Status Laws for various religious communities

Constitution

The preamble to the Constitution states:

B. Lebanon . . . is a founding and active member of the United Nations Organization and abides by its covenants and by the Universal Declaration on Human Rights. The Government shall embody these principles in all fields and areas without exception....

C. Lebanon is a parliamentary democratic republic based on respect for public liberties, especially the freedom of opinion and belief, and respect for social justice and equality of rights and duties among all citizens without discrimination.

The Constitutional Council monitors compliance of laws with the Constitution. The Council has confirmed that the principles in the preamble of the Constitution enjoy constitutional power.¹

Article 7 of the Constitution states:

All Lebanese shall be equal before the law. They shall equally enjoy civil and political rights and shall equally be bound by public obligations and duties without any distinction.

Article 7 guarantees equality before the law, but does not necessarily ensure equality in the law. The Constitution does not contain an article that defines discrimination on the basis of sex and does not prohibit it in line with Article 2(a) of CEDAW.

Articles 9 and 10 give each religious group the right to regulate the affairs of its members, which has led to discrimination against

¹ Constitutional Council, Decision No. 1 of 12 September 1997.

women and girls and among women themselves who belong to different religious communities.

A prominent problem is the restriction of the right to petition the Constitutional Council for review of laws and to submit appeals, without granting this right to citizens. These rights are restricted to the President of the Republic, the Speaker of the House, the Prime Minister, at least ten parliamentarians, and leaders of religious communities.

Policy framework

The National Commission for Lebanese Women (NCLW) oversaw the development and adoption of the National Strategy for Women in Lebanon 2011–2021, which was developed through a participatory process that engaged NGOs, professional associations, and relevant ministries. In 2012, the Council of Ministers approved the strategy, a key objective of which is “combating all forms of violence affecting girls and women in all areas.”

The NCLW developed the National Plan of Action 2017–2019 for the implementation of the Strategy. This national plan covers awareness-raising, education, empowerment, institution-building, combating violence, political participation, and removal of discriminatory laws.

The NCLW is linked to the Presidency of the Council of Ministers.² Its aims include integrating gender into government policies and programmes, supervising implementation of international treaties adopted by Lebanon, establishing an information and reporting mechanism that allows stakeholders to monitor progress in achieving gender equality, and strengthening cooperation and networking between public institutions and civil society organizations on gender issues.

The Office of the Minister of State for Women’s Affairs was established in 2017 with executive power over women’s issues at the national level. In 2018, it developed a strategy on gender equality and gender-based violence (GBV). The Ministry has prepared a number of draft laws, organized campaigns, and cooperated with civil society organizations; and it works in collaboration with the United Nations Economic and Social Commission for Western Asia and UNFPA to formulate a national strategy to combat violence against women.

Other bodies responsible for women’s rights are the Department of Women’s Affairs in the Ministry of Social Affairs and the Parliamentary Committee on Women and Children. Gender focal points have been appointed within the line ministries and the Ministry of Social Affairs.

The Higher Council for Childhood is the national framework for the integration of the official and private sectors for child care and development in accordance with international conventions, especially the Convention on the Rights of the Child. The Council is working with UN agencies to develop a national policy on child marriage. On 12 December 2012, the Cabinet approved the National Strategy for the Protection of All Children from all forms of violence, abuse, and neglect.

The Parliament introduced the National Human Rights Plan (2013–2019) on 10 December 2012, but this has not yet been approved by the House of Representatives. The Parliament passed Law No. 62 dated 3 November 2016 establishing the National Human Rights Commission to monitor human rights by reviewing laws, decrees, and administrative decisions. It will also investigate complaints of violations of human rights and issues periodic reports. A decree was issued in May 2018 to form the members of the Commission. The National Commission for the Affairs of the Disabled and the National Commission for Elderly Support are national mechanisms that work on elderly women’s personal needs. The General Directorate of the Internal Security Forces established a human rights section and the Ministry of Defence established a directorate for international humanitarian and human rights law in 2009.

Access to justice: Legal and support services

Shelters, counselling, support, legal information, and advice services for survivors of GBV and human trafficking are provided by national institutions and NGOs, such as KAFA (Enough Violence and Exploitation), ABAAD, and the Lebanese Council to Resist Violence against Women. The Women’s Affairs Division in the Ministry of Social Affairs also undertakes activities to mitigate the harms caused by GBV, such as providing counselling and shelter for survivors. The Ministry of Social Affairs cooperates with NGOs in combating GBV and providing support to survivors of violence.

Civil society organizations provide long-term and short-term shelters as well as counselling, legal, psychosocial, and rehabilitation services for women survivors of GBV. The Women’s Affairs Division of the Ministry of Social Affairs also undertakes activities to mitigate the damage caused by GBV, such as counselling and shelter services in cooperation with non-governmental organizations.

Despite these services, women face many obstacles in accessing justice, including discriminatory provisions against women and girls, the lack of confidence in law and law enforcement officials, as well as social, cultural, and economic factors.

A 2016 KAFA and UNFPA-supported study on access to justice for people experiencing family violence made the following findings:³

Public awareness of laws related to family or domestic violence in Lebanon is generally low. Only a third of the population claim to know about the Domestic Violence Law. Only 14 per cent of the people who were aware of the existence of a law claimed to know about the protection orders for victims.

Around a third of the population think that turning to the family to address violence is a better option than filing a formal legal complaint.

The level of trust in religious courts varies. People residing in the south are the least confident in religious courts. Many believe that they do not reach fair results. The public’s opinions are also divided about formal legal courts. The main reasons for this attitude are attributed to the belief that the courts are corrupted, and both religious and sectarian laws are unjust. Most residents (65 per cent) do not consider that turning to court would lead to fair results, and most of them (around 90 per cent) believe this is due to

² NCLW was established in 1998 by Law No. 720.

³ Ipsos, General Awareness on Family Violence in Lebanon: Perceptions and Behaviors of the Lebanese Public (2016), <http://www.kafa.org.lb/StudiesPublicationPDF/PRpdf-94-635951276749134776.pdf>.

corruption.

It has also been reported that there is a lack of awareness about the Domestic Violence Law among many lawyers.⁴ However, legal aid NGOs and local bar associations provide legal support to vulnerable Lebanese women and girls on violence protection, including refugees.

The main problem remains weak financial and human resources and low sustainability in the provision of legal and support services. The legal impediments include problems in obtaining protection orders because of the limited capacity of the legal system to deal with domestic violence cases and the need for women to seek legal aid.

There are special obstacles for refugee women in terms of their legal, social, and economic situation. For refugees, lack of identity documents, low trust in the authorities, extreme poverty, and a culture of relying on informal channels for resolving disputes hinder access to the formal justice system. Refugees face particular obstacles in accessing protection of the Domestic Violence Law. Women and girls exposed to violence are not able to seek help from the Internal Security Forces if they are illegal residents or residents in camps.⁵

There are procedural obstacles to accessing justice before religious courts in personal status matters, including high fees. There are many problems in implementing legal aid, including women's limited knowledge and the mechanism to access such aid. There are also obstacles related to the implementation mechanisms. A specialized unit for domestic violence has yet to be established, which impedes the effectiveness of the security sector in dealing with domestic violence.

PROTECTION FROM DOMESTIC VIOLENCE AND SEXUAL VIOLENCE

Domestic Violence Law

On 1 April 2014, Parliament passed Law No. 293 Protecting Women and other Family Members from Domestic Violence. The law is divided into parts on punitive measures and protection measures.

'Domestic violence' is defined by Law No. 293 to include every act of violence, abstention (neglect), or threat thereof committed by one family member against one or more members, the consequences of which may cause death or physical, psychological, sexual, or economic harm.⁷ Domestic violence crimes include forced begging, dealing in or facilitating prostitution or relying on the prostitution of another person to earn income, homicide, adultery, and the use of force or threats to obtain sex.⁸

The law is unclear as to which other crimes also fall under Law No. 293, which has given rise to concerns that the definition requires clarification.⁹ Drafts of the Law had included definitions of physical, sexual, psychological, and economic violence that were not included in the final version. Children are excluded from protection orders when custody does not belong to the mother according to the personal status laws.¹⁰ This means that a child who pays a visit to a non-custodial mother is not protected if during the child's stay the mother is exposed to her husband's violence.¹¹

Several judgments from courts applying Law No. 293 have supported a broad interpretation of the definition of acts of violence to include verbal and emotional violence. However, the definition applied by courts varies according to the judge.

The Law requires a special unit on domestic violence to be established within the Directorate General of the Internal Security Forces to examine complaints,¹² but this unit has yet to be established.

Police stations and judicial units receive regular training to provide counselling services to survivors of domestic violence. Service Order No. 164/204 was issued by the Directorate General in 2013 concerning measures that should be taken by different groups and at different sites for dealing with women at risk of violence.

The Judiciary Police are required to inform survivors of domestic violence of the right to obtain a restraining order and receive legal assistance.¹³

The Public Prosecutor and the domestic violence units of the Judiciary Police can receive domestic violence complaints. Law No. 293 sets out procedures for security forces and means of responding to complaints and protection measures that the Public Prosecutor can take, including:

Require that the defendant enters an undertaking to refrain from causing harm to the victim and other persons;
Prohibit the defendant from accessing the home for a period of 48 hours (renewable once), if no other means is available to

4 Arab Policy Institute, *Dissecting Lebanese Law 293 on domestic violence: are women protected?* (2017).

5 *Ibid.*, Art. 9.

6 Law on the Protection of Women and Family Members against Domestic Violence, Law No. 293 of 2014.

7 *Ibid.*, Art. 2.

8 *Ibid.*, Art. 3.

9 See Human Rights Watch, "Lebanon: Domestic Violence Law Good, but Incomplete" (3 April 2014).

10 Law 293 of 2014, Art. 12.

11 Women's Coalition, *Submission to the Universal Periodic Review* (2014).

12 Law No. 293 of 2014, Art. 5.

13 *Ibid.*, Art. 9.

protect the victim, his/her children, and others;
Detain the defendant to enable the victim/s, upon request, to be transferred to a safe place at the expense of the defendant and with due consideration of his/her means; and/or
Where violence has resulted in injuries requiring medical care, the victim shall be transferred to a hospital provided the defendant pays for treatment expenses in advance.¹⁴

A restraining order is a temporary measure to protect the victim, children under the custody of the mother, and other people residing with the victim.¹⁵ For a woman to receive a restraining order for her children, the children must be in her custody according to Personal Status Laws for each religious denomination. The mother may request a restraining order for children not in her custody from the judge for juveniles according to Law No. 422 of 2002.

A request for a protection order (restraining order) can be submitted in front of a judge or the criminal court dealing with the case in closed chambers. The order can also be submitted to a judge dealing with expedited issues.¹⁶ The court may make orders to:¹⁷

Restrain the defendant from threatening or harming the victim;
Compel the defendant to leave the family home temporarily if the victim is in danger;
Move the victim and other cohabitants to a safe residence if they are in danger / under threat by remaining in the family house;
Compel the defendant, with due consideration of his/her capacities, to pay in advance a sum adequate to cover accommodation and food, clothes, and education fees for dependant persons;
Compel the defendant to pay for medical treatment of the victim;
Refrain from damaging the victim's assets, furniture, or causing prejudice to joint funds;
Enable the victim to access the house and recover belongings.

The offender may be compelled to enrol in rehabilitation sessions on violence at specialized centres.¹⁸

Any person who contravenes the protection order shall be punished with imprisonment for up to three months and/or a fine (maximum of twice the minimum wage). If the offence is accompanied by the use of violence, the offender shall be punished by imprisonment for up to one year and a fine of up to four times the minimum wage. The penalty is doubled in case of repetition.¹⁹

The request for a restraining order can be submitted without a lawyer. All legal fees and expenses are to be waived.²⁰ Court hearings under the Law are held in private.²¹

A special fund is to be established to assist victims of domestic violence and to rehabilitate perpetrators,²² and the Ministry of Social Affairs is to undertake a study for the establishment of this fund as a first step. At the time of writing, however, this fund had not been established.

Previously, in case of a conflict between the domestic violence law and personal status laws, personal status laws took priority. This Article was amended to limit the influence of personal status laws over domestic violence issues. The Article now states that "Except for the rules of jurisdiction of the Personal Status Courts and the provisions on Personal Status that remain solely applicable in their field of jurisdiction, and the provisions of law number 422 dated 6/6/2002 (Protection of Juvenile Offenders at Risk Act), any/all contrary provisions shall be hereby annulled."²³

In a 2015 report, the CEDAW Committee welcomed the introduction of Lebanon's Domestic Violence Law. However, the Committee noted with concern that the law does not include explicit reference to GBV or provisions criminalizing marital rape. The Committee expressed concern about the ongoing existence of crimes committed in the name of so-called 'honour', and the continued existence of discriminatory provisions criminalizing adultery.²⁴

In 2017, the Ministry of Justice and KAFA launched a draft bill to amend Law No. 293. Proposed amendments include:²⁵

To extend the definition of the family to include the spouse after dissolution of marriage.
Defining family violence to reflect use of power in the family by physical or other force.
Inclusion of penalties for anyone who incites or participates or intervenes in a domestic violence crime, even if the person is not a member of the family
Inclusion of penalties so that the crime of domestic violence becomes a separate crime, and all its criminal consequences are punished, including intentional and unintentional killing, sexual exploitation, confinement, and physical, moral, and economic harm.
Adopting the principle of the specialization of judges in cases of domestic violence by assigning judges in each governorate to receive complaints and follow-up all stages of the proceedings.
Assign protection orders to women.
Include protection for children regardless of their age of custody.
Enshrine women's rights to take their children and others who reside with them if they are at risk.
Requirement of rehabilitation sessions for the perpetrator in the protection decision.
Activate the mechanism for implementing protection decisions between the competent authorities.
Allow the Attorney-General to implement a protection order issued by the judge for urgent cases.

On 3 August 2017, the meeting of the Council of Ministers approved the Bill to amend Law 293. However, the Bill is yet to be considered by Parliament, so the amendments are not yet in force.

Protections for women and girls under the Penal Code of 1943

14 Ibid., Art. 11.

15 Ibid., Art. 12.

16 Ibid., Art. 13.

17 Ibid., Art. 14.

18 Ibid., Art. 20.

19 Ibid., Art. 18.

20 Ibid., Art. 16.

21 Ibid., Art. 19.

22 Ibid., Art. 21.

23 Ibid., Art. 22.

24 Committee on the Elimination of Discrimination against Women, Concluding observations on the combined fourth and fifth periodic reports of Lebanon (24 November 2015), CEDAW/C/LBN/CO/4-5.

25 Amendments are proposed to Articles 2, 3, 4, 5, 9, 11, 12, 13, 14, 17, 18, and 21.

Assaults and murder

Assaults causing bodily harm are governed by Articles 554–559 of the Penal Code, which impose penalties that reflect the seriousness of the injury. Penalties for assaults range from:

Six months' imprisonment, a suspended sentence, or a fine if the harm does not result in either illness or incapacity to work for more than ten days.

Ten years' imprisonment in case of a loss of limb or one of the senses, permanent disability, or harm that leads to miscarriage if the perpetrator is aware of the pregnancy.

Use of coercion in order to exercise marital rights is criminalized as assault or physical harm within marriage "with the purpose of claiming marital right to intercourse" under Articles 554–559 of the Penal Code. Threats within marriage are penalized under Articles 573–578 of the Penal Code. However, rape in marriage is not criminalized. Article 183 of the Penal Code states that an act undertaken in exercise of a right without abuse shall not be regarded as an offence. Article 183 is used to defend a man's right to discipline his wife.

Sexual violence

Lebanese laws do not define sexual violence. The only direct reference to it is contained in Law No. 293, but it is a minor definition because its scope is limited to the family and to the offences as stipulated by Law No. 293. The Penal Code does not specify "crimes of sexual violence" but deals with a number of crimes within the context of sexual violence.

Rape outside of marriage is a criminal offence with a minimum punishment of imprisonment of five years. The definition of rape explicitly excludes forced sex in marriage (Articles 503, 504).

Previously, Article 522 of the Penal Code exonerated a perpetrator of kidnapping and adultery who married his victim. Its effect was removed in 2017. However, a perpetrator of certain other offences who marries his victim is exonerated if the circumstances fall under Articles 505 or 518.²⁶

Article 505 provides for statutory rape in the case of sex with a minor. It is a criminal offence to have sexual intercourse with a minor under the age of 15 (regardless of consent). A penalty of imprisonment for a period of between two months and two years applies to anyone who has sexual intercourse with a minor over 15 but under 18 years. Longer prison terms apply if the victim is under 12 years or between 12 and 15 years. In the event of a valid marriage between them, the prosecution shall be stopped.

Article 518 provides:²⁷

A man who seduces a virgin girl with the promise of marriage will be punished, if the act does not require a more severe penalty, with imprisonment for up to six months and a fine of between three million and five million lira or one of the two penalties In the event of a valid marriage between them, the prosecution shall be stopped.

Article 506 provides that anyone who abuses his authority or official position to have sexual intercourse with a minor aged between 15 and 18 years is liable to imprisonment for up to 15 years.

Article 507 imposes a penalty of imprisonment for a minimum term of four years for anyone who coerces another person, by violence or intimidation, to commit or endure an obscene act. The minimum sentence is six years if the victim is under the age of 15.

Articles 509, 510, 519, and 520 prohibit lewd or obscene acts against minors. Article 524 provides that anyone who seduces a woman or a girl under the age of 21, even with consent, to gratify the sexual needs of others, will be punished by imprisonment for a minimum term of one year and a fine.

HONOUR CRIMES

Historically, 'honour' crimes were treated with leniency by the legal system. Article 562 of the Penal Code exonerated perpetrators and afterwards allowed for reduction of sentences. This Article was repealed in 2011.

On 14 July 2016, the Criminal Court in Beirut, in the case of the victim Manal Al-Assi, who was killed by her husband, invoked Article 252 of the Penal Code, which stipulates that "a perpetrator benefits from extenuating circumstances if the crime was committed due to severe anger resulting from an unjust act and a degree of seriousness brought on by the victim." In 2018, Attorney Elie Keyrouz proposed a law amending Article 252, which currently applies to someone who kills, injures, or harms his wife, divorcee, sister, daughter, mother, or any other woman that the law recognizes as having a legal guardian. The proposed amendment would strengthen the penalties for murder, injury, abuse, and beatings against women.

²⁶ Three deputies (Gilberte Zouein, Alain Aoun, and Nabil Nicholas) submitted on 30 October 2017 the proposal to amend Articles 505 and 519 and repeal Article 518. In February 2018, the Minister of State for Women Affairs, Jean Oghassabian, submitted a bill to Amend Article 505 and to repeal Article 518.

²⁷ Amended by Law No. 239 of 27 May 1993 and Law No. 53 of 2017 (penalties adjusted to reflect currency revaluation).

ADULTERY AND SEX OUTSIDE OF MARRIAGE

Culturally, adultery is considered dishonourable and is prohibited by Articles 487, 488, and 489 of the Penal Code. Adultery is punished by imprisonment of no less than three months and no more than two years. Previously, these articles discriminated between women and men in terms of punishment, conditions of investigation of the offence, and means of proof, but these three articles were amended by Article 3(6) of Law No. 293 to remove discrimination.

Human rights experts have called for the repeal of adultery offence provisions in penal legislation;²⁸ and in 2016, MP Sami Gemayel proposed a law to repeal such provisions. The bill amending Law 293 of 2014, which was approved by the Council of Ministers in 2017 but which is yet to be passed into law by Parliament, proposes to abolish Articles 487, 488, and 489 of the Penal Code.

Consensual sex between an adult man and adult woman neither of whom are married is not criminalized.

ABORTION FOR RAPE SURVIVORS

Abortion is prohibited by Articles 539–546 of the Penal Code, including in cases of rape or incest, and in cases in which the life or health of the mother is threatened. The penalty for anyone who aborts, facilitates, promotes, sells, buys, or acquires its means is imprisonment and a fine.

The woman whose foetus is killed is punished by imprisonment from six months to three years.

A woman who through any means induces her own abortion or allows another person to do so is subject to imprisonment for six months to three years. A person who performs an abortion with the woman's consent is subject to one to three years' imprisonment, unless the death of the woman results, in which case the punishment is four to seven years' imprisonment. If the abortion is performed without consent, the punishment is increased to at least five years' imprisonment. If the woman dies, the person performing the abortion is subject to at least ten years' imprisonment.

A person performing an abortion to save the honour of a descendant or relative to the second degree, as well as a woman inducing her own abortion to save her honour, is subject to a reduced penalty. Health personnel performing abortions are subject to harsher penalties.

The Penal Code prohibition on adultery conflicts with Presidential Decree No. 13187 of 20 October 1969, which permits an abortion when it is the only means of saving a pregnant woman's life. The decree allows for therapeutic abortions under certain conditions, if it is the only way to save the life of the mother at high risk or at risk of death and not just at risk of an illness. The doctor or surgeon must check with two doctors who must examine the pregnant woman and agree that an abortion is the only way to save her life. The pregnant woman must agree to the abortion after she has been informed of the situation. If she is unconscious, her husband or her family will consent.

FEMALE GENITAL MUTILATION/CUTTING (FGM/C)

FGM/C is not reported to occur in Lebanon. There are no laws directly addressing FGM/C.

²⁸ Office of the High Commissioner for Human Rights (OHCHR), Statement by the United Nations Working Group on discrimination against women in law and in practice: "Adultery as a criminal offence violates women's human rights" (2012), <http://www.ohchr.org/EN/Issues/Women/WGWomen/Pages/WGWomenIndex.aspx>.

FAMILY MATTERS

Personal status laws

Lebanon does not have a civil code regulating personal status matters. There are 15 personal status laws for the country's 18 recognized religious communities, including Christian, Muslim, Druze, and Jewish, which are administered by their respective religious courts. Women and girls are subject to various discriminatory provisions under the 15 personal status laws.

Decree 60LR of 1936 gives each religious community jurisdiction over their own community's personal status matters. It also recognizes the freedom of belief of each individual by granting the right of each person to opt out of their religions' personal status laws. Citizens have the right to choose religious affiliation, including to affiliate with a religion that has no personal status code in Lebanon (referred to as "ordinary sects") or to choose not to affiliate with a religion.

Foreign marriages can be registered in Lebanon and are recognized as valid when marriage is completed in accordance with the law of the foreign country.

Civil Marriage

In 2013, the Interior Minister signed the first civil marriage contract in Lebanon, based on a decree of 1936 during the French Mandate. A few marriage contracts were accepted for registration in exceptional circumstances.²⁹ Registration of civil marriages was later refused after the Minister of the Interior in 2015 took the decision to refer civil marriage contracts to civil courts to consider their legality. The government is yet to approve a civil code to enable a civil marriage system to operate.

There have been numerous proposals to introduce civil marriage. For example, a draft law on civil marriage was issued by the Beirut Bar Association in 2017. In response to the Syrian refugee crisis, a draft law on minimum age for marriage has been proposed requiring approval from a civil court for underage marriages. Marriages involving children below the age of consent would have to receive approval from a civil judge as well as a religious court.

Age of marriage

Early marriage is considered to be an indicator of human trafficking. The minimum age of marriage varies among religious denominations. Lower minimum ages of marriage for girls than boys disadvantages girls. All religious groups allow girls under the age of 18 to marry. Among Sunni and Shiite Muslims, marriage of girls as young as nine years can occur if approval is granted, although it is no longer customary that such young girls marry. Among the Jewish denomination, girls as young as 12½ years may marry. Among Syrian Orthodox and Armenian Orthodox churches, a girl may be 14 years old when she marries. The marriage age for boys of most religious groups is 18, although marriage of younger boys can be approved.³⁰

Three bills on preventing child marriage are being discussed in Parliament. One was prepared by the NCLW and presented by MP Ghassan Moukheiber. The second was prepared by the Lebanese Democratic Women's Gathering and presented by MP Elie Keyrouz. The third was prepared by KAFA through a bill adopted by the Ministry of Human Rights. After discussion, it was decided to prepare a fourth text combining these three proposals. A specialized parliamentary committee was commissioned to prepare the text for discussion.

Marital rights and responsibilities

Personal Status Laws for Muslims include requirements for wives to obey their husbands. The husband has the right to his wife's obedience and residence with him in one dwelling and to accompany him to wherever he wants. If the wife violates the right to submit to obedience, he is able to put forth a claim for disobedience (*nushuz*), in which the wife is no longer entitled to maintenance. The rights of the wife are entitlement to dowry and the necessary maintenance of housing, clothing, food, and good treatment (cohabitation). Common rights are the right to enjoy each other, the right to have children, and the right to inherit.

Men and women have the same rights to own property and to dispose of property. Lebanese law adopts the principle of independent financial disclosure, although there are exceptions. For example, if someone is under suspicion for smuggling, the authorities will scrutinize both the husband's finances and the wife's finances. These cases are regulated by commercial law, which applies to all Lebanese.

29 Al-Akhbar, "Lebanon, civil marriage stuck in the Interior Ministry," <http://english.al-akhbar.com/node/18204>.

30 United Nations Children's Fund, Lebanon, MENA Gender Equality Profile (2011).

In the case of the Islamic sects, women are not entitled to maintenance except through marriage. It is obligatory for the husband to maintain the wife because the nature of the marriage contract does not presume that the wife spends her own money, even on herself, because the man is the guardian/head of the household. In case of family tensions, a court order is issued for monthly maintenance. Upon divorce, the woman is entitled to the maintenance of *iddat*, i.e., the maintenance of the woman who is obliged to stay in her house for the duration of the legal waiting period.

Women in Christian denominations are entitled to maintenance if they are abandoned by the husband. Although maintenance claims can be made before the divorce is settled on the basis of the dispute, in many cases it takes a long time to properly consider the needs of women who are often economically disadvantaged and responsible for supporting their children. Christian communities oblige women to remain with their husbands and return to their marital homes so as to not be denied maintenance and custody.

Article 31 of the Tax Code of 1959, amended in 2003, discriminates against women. Married men are entitled to make deductions for dependent wives and up to five children, but a married woman can only do so if she can prove that she is the head of the family or if her husband is deceased or has a disability and is unable to work. Married women bear higher tax burdens than men because they are treated as single women for tax purposes. In a related context, Articles 625–629 of the Trade Act of 1942 are discriminatory because they impose restrictions on the property of the wife in the event of her husband declaring bankruptcy. In this case, too, a woman is treated as a dependent of her husband and the property acquired during the marriage is considered to be property acquired with her husband's money, unless the woman is able to prove otherwise.

Divorce

The rules for divorce and annulment vary among religions. Grounds for divorce or annulment under the Personal Status Laws reinforce women's financial dependence on men. The criteria for women to access divorce are more stringent than those for men, and provisions for maintenance are not supportive of women obtaining economic independence in the event of divorce.

Personal status laws relating to maintenance after divorce do not recognize a wife's economic and non-economic contributions to the marriage, or the concept of marital property.³¹

Divorce rights of Muslims

A Muslim husband has the right to terminate marriage unilaterally, without cause, and outside a court of law. For a Muslim wife, it is more difficult to obtain divorce.

A Sunni woman can seek divorce from her husband for a number of specified reasons. Violence against a woman by her husband is not automatically considered grounds for divorce. In cases in which a woman seeks divorce due to a history of violence, she must prove that the abuse exceeds her husband's legal authority to discipline his wife under the relevant personal status law.

Irreconcilable disputes and abusive behaviour provide grounds for a judicial divorce from the Sunni Courts. In severance claims (available to Sunnis), domestic violence does not necessarily render the husband liable. Severance is a divorce obtained by judicial order pursuant to a request from either spouse and for reasons specified by religious law. Sunni courts often find women partly culpable in severance cases even in cases with spousal violence or harm. Some women pre-emptively relinquish their pecuniary rights to provide an incentive to their husband to agree to initiate divorce.³²

Another option available to both Sunni and Shiite women is for a woman to return her dowry and forfeit any financial maintenance in exchange for the husband's agreement to divorce (*khul'a* or 'quittance'). In some *khul'a* cases, a wife must pay money to her husband for a divorce.

A Shiite woman cannot obtain a divorce without the consent of her husband. In the Jaafari doctrine, women are not entitled to divorce, and the role of the judge is limited to issuing the divorce document based on the recognition of the couple. The judge is entitled to divorce the woman at her request in the absence of her husband who is absent for a long period without providing maintenance. The Jaafari denomination is developing a proposal for an alternative mechanism for deciding divorce cases (judge's divorce). The applicant may be subject to appeal or annulment.

³¹ Human Rights Watch, Human Rights Watch Submission to the CEDAW Committee of Lebanon's Periodic Report 62nd Session (2015).

³² Ibid.



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Divorce rights of Druze

Under Druze law, men have an absolute right to unilaterally terminate a marriage without cause, but must do so in a court. If a judge finds a Druze husband has divorced his wife without legitimate reason he can compensate the wife. A marriage can also be dissolved if the spouses mutually consent to a divorce or through a request from either spouse for severance based on reasons (e.g., illness, imprisonment, abandonment), but violence is not automatically considered a sufficient reason.³³

Annulment of Christian marriages

It is very difficult for either spouse to terminate a marriage, even consensually, under Christian confessions. There are very narrowly defined situations in which couples can end their marriages through annulment. These provisions vary among Catholic, Orthodox, and Evangelical confessions. There are some amendments, including the amendment of the Supreme Pontiff in 2015, which amended some canon laws, especially the laws of invalidity of marriage in the Eastern Churches.

For Catholics, violence is not sufficient grounds for divorce.³⁴ Recently, however, case law (*ijtihad*) has been developed in this matter, so that marriage becomes invalid if one of the spouses is unable to bear the burden of marriage (after a mandatory psychological evaluation for both spouses is carried out), and domestic violence can be considered as an inability to bear the burden of marriage. The religious courts have sometimes annulled marriage in the event of physical, economic, or other violence or even in the case of psychological incompatibility.

³³ Ibid.

³⁴ Ibid.



Guardianship and custody of children

Men have guardianship rights over children, and these rights continue after divorce. Guardianship is not limited to the father; and where the father is absent, guardianship is given to the grandfather or to a guardian chosen by the father or the legal guardian appointed by the court.

Women do not have guardianship rights, with the exception of Armenian Orthodox couples.

In all Christian denominations, with the exception of the Armenian Orthodox community, the right to guardianship is for the father alone, except in the case that the father grants it to the mother or in the event that his right to guardianship falls and is granted to the woman.

Rights to custody of children differ among religions. In many cases there are strict conditions that limit the mother's custodial rights, but not the father's rights. Personal status laws generally provide that the mother has custody of children who are young (the custody age differs according to each confession).

Under amendments approved in 2017, Druze women are allowed custody until their son reaches the age of 12 or daughter reaches the age of 14.

Shiite women are granted custody of their sons until they reach two and their daughters reach seven. Recent amendments to the Sunni personal status law provide that mothers retain custody of their sons until they reach 13 years and daughters reach 15 years.

Many women who are in abusive relationships choose not to pursue divorce due to fear of losing custody of their children.³⁵ Muslim women of all denominations forfeit their custodial rights immediately if they remarry.³⁶ Men never lose custody if they

remarry, and the children belong to his patrilineal line. In the event of divorce, the child's age generally determines with whom they reside, although Sunni judges have discretion to consider the best interest of the child in determining custody.

Similarly, Christian personal status laws also use the child's age as the principal factor in determining custody while also allowing judges to make custody decisions based on the best interests of the child.

If children are subjected to violence, women have the right to appeal to the juvenile judge for a protection order for their children.³⁷ If the judge finds that violence was perpetrated against the child (verbal, physical, psychological, sexual, or neglect), a protection order is issued and the children are transferred to the mother to care for them even if they are not in her custody.

³⁵ Human Rights Watch, *Unequal and unprotected: Women's rights under Lebanese Personal Status Law*, (2015), p. 7.

³⁶ National Commission for Lebanese Women, *The Implementation of the Declaration and Action Plan Beijing +20*.

³⁷ Law No. 422 of 2002, Art. 25.

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INHERITANCE

under personal status rules. This decision is now a matter decided by the juvenile court rather than the religious courts. The Court of Cassation issued a decision on 7 July 2009 to respond to the objections of religious denominations to the civil juvenile system's decisions to take protection measures for any child. For instance, measures can now be taken to keep a child under the mother's care even if the child is under the guardianship of the father.

Under the Personal Status Law for Sunni Muslims (Hanafi) a male heir receives twice as much as a female heir (i.e., a daughter receives half the amount that a son receives). In cases of polygamy, the wives inherit equal shares of inheritance from their husband.

The Jaafari denomination depends on the distribution of the heirs according to rank, so that the advanced rank obscures the next rank, and the inheritance does not move from one rank to another unless there is no one in the advanced rank (e.g., if a person dies and has a mother and brother, the mother inherits the entire estate because it obscures the brother). The heir closest to the deceased inherits without distinction between males and females, but it remains that if the ranks are equal, then the male receives the shares of two females.

The Druze denomination follows the Hanafi Islamic School of thought similar to Muslim Sunnis for inheritance. In the 2017 amendments of the personal status law of the Druze community, a significant amendment was made benefiting the daughter of the deceased. If the deceased had only a female child, the girl will be considered in a league by herself, and she will inherit the entire estate. If there are multiple girls, the shares are distributed evenly.

The Civil Law of Inheritance of 23 June 1959, which applies to non-Muslims, provides that women and men enjoy equal rights with regard to inheritance.

According to the Lebanese Constitution (Article 7), women (married and unmarried) have the same rights as men to conclude contracts and own and administer property. However, in practice, male family members usually make decisions relating to property even if it is owned by women. Land is often registered under the male name even if it contradicts the inheritance rules of the relevant religion, so as to keep wealth in the family. Women's limited access to land affects their access to loans, which limits their investment capacities. Personal status laws do not recognize a wife's contributions to the marriage, including the value of her unpaid domestic labour, or the concept of marital property, and therefore women are deprived of a share of family property upon divorce.³⁸

³⁸ Human Rights Watch, "Unequal and unprotected: Women's rights under Lebanese Personal Status Law," (2015), p. 87.

NATIONALITY

Lebanon is not a party to either the 1954 Convention relating to the Status of Stateless Persons or the 1961 Convention on the Reduction of Statelessness.

Lebanese nationality is transmitted by paternity. The Lebanese Nationality Law of 1925³⁹ gives a Lebanese man the right to pass nationality to his spouse and children. Lebanese women do not enjoy the same rights. A Lebanese man confers his nationality to a non-Lebanese wife, but a Lebanese woman cannot confer nationality to a non-Lebanese husband. There are a number of bills aimed at amending the Nationality Law.⁴⁰

Article 1 of the Nationality Law provides that nationality is acquired by a person who is either:
born to a Lebanese father;
born in the Greater Lebanon territory and able to prove that he or she is not naturalized as a foreign subject; or
born in the Greater Lebanon to unknown or Stateless parents.

Article 2 provides that a Lebanese mother can only grant her children Lebanese nationality if they were born illegitimately.

The Nationality Law denies a Lebanese woman the right to pass her nationality to her children if her husband is not Lebanese. There is discrimination between a mother of Lebanese origin and a mother who acquires Lebanese nationality by marriage to a Lebanese man. Under Article 4, a foreign mother who acquires Lebanese nationality through marriage is entitled to pass Lebanese nationality to her children if she outlives her husband. This right is denied to Lebanese women who marry foreigners.

Many Lebanese women who marry non-Lebanese men only become aware of the consequences when they are told that their child cannot be added to their family register. Children and husbands are required to obtain residency permits to remain in the country, and their employer must pay a fee to obtain a work permit for them. The process of obtaining residency permits is cumbersome. Foreign husbands and children of Lebanese women face obstacles in accessing basic rights such as education and health care.⁴¹ After the Syrian crisis and due to the increase in the number of refugees in Lebanon, Lebanese women married to Syrian men lost their rights for their children to benefit from health services at the expense of the Ministry of Health.

Statelessness affects people in large numbers. Birth registration is not accessible to all children due to financial, procedural, and regulatory obstacles. The Registration of Personal Status Law of 1951 imposes an expensive judicial procedure for birth registration after the age of one. The majority of Syrian children born in Lebanon and children born to undocumented migrants do not have an official birth certificate owing to requirements for obtaining identity documentation and proof of legal residency.

Law No. 41 of 2015 on re-naturalization enables persons of Lebanese descent to reacquire Lebanese nationality, but the Law is discriminatory because it limits the beneficiaries to descendants of men of Lebanese ancestry. On 7 January 2016, the Constitutional Council issued a response to an appeal against the Law (Decision No. 1), finding the Law to be valid by nine votes to one. The Council found that Law No. 41 of 2015 defines the rules of re-naturalization based on the Nationality Law issued in 1925, whose constitutionality cannot be contested under Lebanese law. Only one member found that the Law was contrary to the principle of equality enshrined in the Constitution.⁴²

The National Commission for Lebanese Women is in the process of drawing up a draft nationality law.

39 Decree No.15 of 1925 on Lebanese Nationality, amended by the Law of 11 January 1960.

40 Bills include a draft law submitted by the former Minister of Interior and Municipalities Ziad Baroud; a draft law submitted by former MPs Bahij Tabbara and Pierre Dakash; and a draft amendment submitted by the National Commission for Lebanese Women. On 21 March 2018, Foreign Minister Gebran Bassil presented a draft law to allow Lebanese women to pass their nationality when marrying a foreigner, with the exception of marriages from neighbouring countries (i.e., Syria and Palestine).

41 Christine Chamoun, "The Lebanese Nationality Law That Leaves Children Stateless," Open Society Foundation (11 January 2017), <https://www.opensocietyfoundations.org/voices/lebanese-nationality-law-leaves-children-stateless>.

42 Nizar Saghieh, "Restoring Citizenship Law in Lebanon: Renaturalization Without Return," Legal Agenda (1 July 2016).

LABOUR LAWS

Entering employment

No provision was found in the Labour Code of 1946 prohibiting discrimination based on gender in recruitment and hiring. The Labour Code prohibits women from working in certain occupations considered arduous or hazardous, e.g., in the mining industry, welding and metalwork, glass work, production of alcohol, tannery work, and abattoir work.⁴³ Provisions relating to women are included in Chapter 2 of the Labour Code, which also addresses children.

Remaining in employment

Women have legal protection against workplace discrimination. The Labour Code prohibits employers from discriminating against women on the grounds of gender in the kind of work provided or the amount of wages, promotion, advancement, professional standing, and clothing.⁴⁴ However, it does not include a clear mechanism to monitor the private sector and to impose specific penalties for breaking the law.

Women are entitled to ten weeks' maternity leave, which is required to be paid by the employer.⁴⁵ This falls short of the recommendation in ILO Maternity Protection Convention No. 183 (Article 4(1)), which is 14 weeks. Lebanon has not ratified the ILO Maternity Protection Convention.

It is unlawful to dismiss a woman because of her pregnancy.⁴⁶

Article 3 of the Labour Code and Article 46 of the Social Security Law provide welfare benefits for men that do not apply to women. For example, male employees can receive compensation for working wives while female employees can only do so if their husbands are deceased or suffer from an illness that does not allow them to work. Regardless of the gender of the employee, compensation is provided for each child. Article 10 of the Benefits and Services Regulations of the State Employees Cooperative and Article 14 of the Social Security Law discriminate against women in relation to their spouses in access to health care and other social benefits.

Workplace sexual harassment

The Labour Code does not specifically prohibit workplace sexual harassment. Lebanese law does not define sexual harassment and does not use the term. However, the Penal Code includes the punishment of acts to which the description of sexual harassment may apply, including in Articles 385, 507, 519, and 532. Although there is no direct provision criminalizing sexual harassment, the criminal judiciary has identified many files to which the description of harassment applies and which are criminalized by the Penal Code. Several bills have been proposed to criminalize sexual harassment directly, including a draft law submitted by the Minister of State for Women, which was approved by the Council of Ministers in 2017 and is currently under review in Parliament.⁴⁷

Migrant domestic workers

Domestic workers are excluded from the protections of the Labour Code, which makes female domestic workers (many of whom are migrants) more vulnerable to abuse and domestic servitude.⁴⁸

A standard contract for migrant domestic workers is used in Lebanon that sets out the parameters of the employment relationship. The employer has a great degree of power in determining the living and working conditions of a migrant domestic worker due to the sponsorship system, known as *kafala*. Under the *kafala* system, a worker's legal status is linked to one employer and the worker cannot unilaterally exit the employment relationship.⁴⁹ Migrant workers lose their legal status if their sponsor terminates their contract, or if they decide to leave their employer after experiencing violence or abuse. A migrant domestic worker who leaves an employer loses the right to work and faces deportation. Domestic workers may be detained for leaving the home of their employer without permission or violating the terms of their contract. They are subjected to questioning and then deported.

43 Labour Code of 1946, Art. 27 and Annex I.

44 Ibid., Art. 26; Loi No. 207 du 26 Mai 2000, modifiant les Articles 26, 28, 29 et 52 du Code du Travail du (23 Septembre 1994), <http://www.ilo.org/dyn/natlex/docs/WBTEXT/59176/65219/F00LBN01.htm>.

45 Labour Code, Arts. 28, 29; Article 38 of the Legislative Decree No. 112 concerning Government Employees Regulations. Amendments made by Laws No. 266 and 267 of 2014 extended maternity leave to ten weeks.

46 Labour Code, Arts. 29, 52.

47 The Bill prepared by Minister of State for Women Jean Oghassabian was approved by the Council of Ministers in 2017 and referred to the Chamber of Deputies. In 2014, MP Ghassan Moukheiber submitted a proposal criminalizing sexual harassment. However, it was not until 2017 that the draft bill was introduced to Parliament. Parliamentarians withdrew support following concerns raised by some MPs. See https://website.aub.edu.lb/ifi/publications/Documents/policy_memos/2017-2018/20180121_sexual_harassment_draft_laws_lebanon.pdf

48 Labour Code, Art. 7(1).

49 International Labour Office, *Intertwined - A study of employers of migrant domestic workers in Lebanon* (Geneva: ILO, 2016).



SEX WORK AND ANTI-PROSTITUTION LAWS

Criminalization of prostitution

Article 523 of the Penal Code criminalizes a person who practices prostitution or deals in or facilitates this practice. Articles 526 and 527 of the Penal Code make coercion of prostitutes and living on the earnings of a prostitute illegal. Article 527 provides that a person who relies on the prostitution of a third party to gain income is liable to imprisonment of no less than six months and no more than two years and a fine, and the sentence is doubled where the crime involves violence or threats. More severe penalties apply to a family member of the victim who relies on earnings from prostitution.

Licensed commercial sex venues

The Law on Public Health of 1931 permitted the sale of sex in licensed premises. However, this licensing system no longer operates and no new licenses have been granted since 1975.⁵⁰ In 1998 a law forbidding businesses to have rooms available for selling sex was passed. To avoid being subject to this law, the official status of sex businesses was changed to “entertainment venues.”⁵¹

Sale of sex at entertainment venues

The sale of sex at entertainment venues, such as ‘super nightclubs’, is associated with the artist visa. Many women who sell sex enter Lebanon through this visa, which permits them to work as entertainers. This category of visa has been criticized because it contributes to the vulnerability of women to sexual exploitation.⁵² The artist visa does not explicitly permit the sale of sex in entertainment venues, but it is widely known that this occurs. The conditions of work of women who hold artist visas are regulated by directives issued by the General Directorate of General Security, including mandatory medical examinations and pregnancy tests.⁵³ The artist visa has many implications for the visa holder in terms of quality of life and ability to make choices. Women often obtain a tourist visa under false pretences facilitated by a trafficking ring.

HUMAN TRAFFICKING

Syrian refugee men, women, and children in Lebanon are at risk of sex trafficking and forced labour. There is a reported increase in Syrian children engaged in forced street begging. Syrian girls are brought to Lebanon for sexual exploitation, sometimes through the guise of child marriage. Some Syrian refugees are forced to work in agriculture or conduct criminal activity.⁵⁴

Foreign workers without valid residence and work permits are subject to detention followed by deportation. Often, trafficking survivors are detained or deported for crimes committed as a result of being subjected to human trafficking without screening for trafficking.

Lebanon has acceded to the Convention against Transnational Organized Crime and to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Palermo Protocol). In 2014, the government issued a ministerial decree creating an anti-trafficking bureau under the Internal Security Forces to manage human trafficking investigations.

Legal protections against trafficking were strengthened by Law No. 164 of 2011.⁵⁵ Article 586 of the Penal Code was inserted by this law, which prohibits all forms of human trafficking. Human trafficking is defined as attracting, transporting, receiving, detaining, or sheltering a person:

By the threat or use of force, abduction or deception, the exploitation of power or the exploitation of vulnerability, the giving or receiving of money or benefits, or the use of such means by a person having authority over another person.

With the aim of exploiting the person or facilitating exploitation by others. The consent of the victim shall not be taken into account in the event of the use of any of the means set forth in this article.

“Victim of trafficking” means any person who is the subject of trafficking in persons or who the competent authorities reasonably consider to be a victim of trafficking in persons, regardless of whether the perpetrator has been identified, arrested, tried, or convicted.

Exploitation of a person includes forcing a person to participate in one of the following acts: (a) acts punishable by law; (b) prostitution and exploitation of the prostitution of others; (c) sexual exploitation; (d) begging; (e) slavery or practices similar to

⁵⁰ Institute of Development Studies (UK), “Sex work law,” <http://spl.ids.ac.uk/sexworklaw/countries>.

⁵¹ Ibid.

⁵² United States Department of State, Trafficking in Persons Report (2017), <https://www.state.gov/j/tip/rls/tiprpt/countries/2017/271225.htm>.

⁵³ See General Directorate of General Security website, <http://www.general-security.gov.lb/en/posts/43>.

⁵⁴ US Department of State, Trafficking in Persons Report.

⁵⁵ Lebanon has issued several laws on human trafficking since 2002, e.g., Laws 408/2002, 474/2002, 682/2005, 739/2006, Decree No. 3631/2010, Decree No. 4986/2010.

slavery; (f) forced or compulsory labour, including forced or compulsory recruitment of children in armed conflict; (g) forced involvement in terrorist attacks; and (h) removal of human organs or tissues.

The consent of the victim or of his ascendants, legal guardians, or any other persons exercising legitimate or actual authority shall not be taken into account. For persons under the age of 18, trafficking in persons is defined as to attract, transfer, detain, or provide shelter to the victim for the purpose of exploitation, if not accompanied by any of the above methods.

This definition introduced by Article 586 is largely in line with the definition in the Palermo Protocol. However, there is a contradiction between the Anti-Trafficking Law and the criminalization of prostitution in the Penal Code. Criminalization of prostitution means that some survivors of sex trafficking may be reluctant to seek help from authorities for fear of prosecution and deportation.

Penalties for trafficking are imprisonment for five years and a fine.⁵⁶ If the conduct involves violence, the penalty is imprisonment for seven years and a fine. Penalties for sex trafficking and forced labour are up to 15 years' imprisonment if there is more than one victim. As yet there have been few convictions.

Article 73 of the Penal Code prohibits inciting a minor under the age of 18 to engage in prostitution, either by threat, deception, or coercion. The offence is punishable by imprisonment for three months to two years.

Authorities sometimes arrest and detain trafficking survivors for crimes committed as a direct result of being subjected to trafficking.⁵⁷ On 27 November 2017, the Criminal Court in Beirut issued a ruling prohibiting the punishment of a woman forced to practice prostitution by her husband. It was the first judicial ruling to exempt a victim of sexual exploitation from punishment. This indicates a more supportive approach of the courts to women who are exploited into prostitution.

REFUGEES AND ASYLUM SEEKERS

Lebanon has not acceded to the Refugee Convention or its Protocol. In 2015, the Government of Lebanon prepared a crisis response plan addressing three areas:

Providing material and legal assistance to the most vulnerable among those displaced from Syria and the poorest Lebanese.
Linking vulnerable groups and sites to basic services and enhanced protection.
Supporting national institutions to maintain social stability.

The NCLW is preparing a National Action Plan on United Nations Security Council Resolution 1325 on women, peace, and security.

Assessments of the impact of the Syrian crisis indicate high levels of sexual and gender-based violence, with rape, assault, intimate partner violence, and survival sex appearing increasingly common. A rapid assessment conducted in 2012 concluded newly arrived Syrian women and girls are living in unplanned and overcrowded refugee settlements, with minimal privacy and compromised safety, particularly among refugees inhabiting abandoned public buildings.⁵⁸ Refugee and displaced women face difficulties in accessing services for survivors of GBV because of their status as refugees or displaced persons.

Human rights violations affecting Palestinian refugees include:

Problems obtaining Lebanese nationality, including where a Palestinian woman is married to a Lebanese citizen.

Problems affecting Palestinian refugees from Syria to Lebanon due to regulatory measures and poor living conditions.

Denial of the right to work and access to social protection.

Problems affecting the right to own property and procedures for registering property for a foreigner married to a Palestinian refugee.

Problems affecting the rights of women to protection under Law No. 293 of 2014. Lack of access to justice in the camps prevents refugees from accessing justice and protection.

⁵⁶ Penal Code, Art. 586.

⁵⁷ US Department of State, Trafficking in Persons Report.

⁵⁸ Ghida Anani, "Syria Crisis: Dimensions of gender-based violence against Syrian refugees in Lebanon," Forced Migration Review (September 2013), <http://www.fmreview.org/detention/anani#sthash.orj8G6EE.dpuf>.

SEXUAL ORIENTATION, GENDER IDENTITY, AND RELATED ISSUES

Uncertainty regarding the legal status of same-sex sexual conduct under the Penal Code contributes to the vulnerability to violence of lesbian, gay, bisexual, and transgender people. Article 534 of the Penal Code criminalizes “unnatural sexual intercourse” with up to one year in prison. This article is not commonly enforced but has been used by police in the past to charge lesbian women as well as gay men.⁵⁹ Physical torture, psychological humiliation, and anal examinations have also been recorded.

A series of court rulings supports the position that Article 534 should not be used to prosecute consensual conduct between adults.⁶⁰ In 2017, a judge challenged the legal basis of the arrest of men, declaring in a Metn Court ruling that “homosexuals have a right to human and intimate relationships with whoever they want, without any interference or discrimination in terms of their sexual inclinations, as it is the case with other people.” This judge relied on Penal Code Article 183, which states, “An act undertaken in exercise of a right without abuse shall not be regarded as an offence.”⁶¹

International mechanisms for the protection of human rights are of great importance to the “meem” community of women in Lebanon. Special centres and NGOs have been established to support the “meem” community.

Concerns about Article 534 have been raised in the list of issues or concluding observations submitted to Lebanon by the UN Human Rights Committee and the Human Rights Council. There are reports that the number of arrests under this Article are increasing and that anal examinations of men continue to be conducted by police, despite the ban on these practices in 2012.⁶²

There are no specific laws protecting people from hate crimes or discrimination based on their sexual orientation, gender identity, or intersex status. There is no specific legal protection or recognition of transgender women or men. However, Lebanon’s Court of Appeals granted a transgender man the right to change his legal status in the civil registry in 2016.⁶³

In 2013 the Lebanese Psychiatric Society issued a statement affirming that homosexuality is not a mental disorder, and in 2015 it called for the abolition of Article 534.⁶⁴

LEBANON: KEY RESOURCES

Legislation

Decree No.15 of 1925 on Nationality. Available from <http://www.refworld.org/pdfid/44a24c6c4.pdf>.
Lebanese Constitution Promulgated 23 May 1926 with its 1995 amendments. Available from <http://www.wipo.int/edocs/lexdocs/laws/en/lb/lb018en.pdf>.

Penal Code, Legislative Decree 340 of 1943. Available from <http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/89873/103350/F300391946/LBN89873%20Arab.pdf>
Labour Code of 1946. Available from <http://www.ilo.org/dyn/travail/docs/710/Labour%20Code%20of%2023%20September%201946%20as%20amended.Publication%202010.pdf>.

Trafficking Law of 2011.

Personal Status Laws for Christian and Israeli Denominations in Lebanon (Tripoli: New Association for Books, 2003).

Personal Status Laws for Christian Denominations in Lebanon (Beirut: Al-Halabi Legal Publications, 2010).

Personal Status Laws for Muslim Denominations in Lebanon (Beirut: Al-Halabi Legal Publications, 2010).

59 Human Rights Watch, “Lebanon: Law Reform Targets Honor Crimes” (11 August 2011), <https://www.hrw.org/news/2011/08/11/lebanon-law-reform-targets-honor-crimes>.

60 The first was issued by the single criminal judge in Batroun, Munir Sulaiman, on 2 December 2009, and the second was issued by the single magistrate in Metn, Naji Dahdah, on 28 January 2014. The third was issued by a single criminal judge in Jdeideh, Hisham Qantar. In 2014, the Jdeideh Court in Beirut dismissed a claim against a transgender woman who was accused of having a same-sex relationship with a man because she was registered as a male at birth. The ruling relied on a 2009 decision of the Batroun Court that consensual relations cannot be deemed unnatural. See <https://www.indexoncensorship.org/2014/04/gay-rights-lebanon-good-bad-ugly/>.

61 Human Rights Watch, “Lebanon Edges Closer to Decriminalizing Same-sex Conduct” (2 February 2017), <https://www.hrw.org/news/2017/02/02/lebanon-edges-closer-decriminalizing-same-sex-conduct>.

62 UN Human Rights Committee, “List of issues in relation to the third periodic report of Lebanon” (31 August 2017), CCPR/C/LBN/Q/3.

63 See “Lebanese judge grants trans man right to change gender,” Daily Star (15 January 2016), <http://www.dailystar.com.lb/News/Lebanon-News/2016/Jan-15/332090-lebanese-judge-grants-trans-man-right-to-change-gender.ashx>.

64 Human Rights Watch, “Lebanon Edges Closer to Decriminalizing Same-sex Conduct.”

- Law No. 293 of 2014 on the Protection of Women and Family Members against Domestic Violence. Available from https://www.justice.gov.lb/public/uploads/Law%20On%20the%20Protection%20of%20Women_EN.PDF.
- References
- Arab Policy Institute, *Dissecting Lebanese Law 293 on domestic violence: are women protected?* (2017).
- Baydoun, Charara A., *Cases of Femicide Before Lebanese Courts* (2011). Available from https://lb.boell.org/sites/default/files/cases_of_femicide_before_lebanese_courts.pdf.
- Committee on the Elimination of Discrimination against Women, *Concluding observations on the combined fourth and fifth periodic reports of Lebanon* (24 November 2015), CEDAW/C/LBN/CO/4-5.
- Committee for the Follow-Up on Women's Issues, *Second National Report on the Elimination of All Forms of Discrimination against Women in Lebanese Laws* (2005).
- Freedom House, *Women's Rights in the Middle East and North Africa, Country Reports, Lebanon* (2010). Available from https://freedomhouse.org/sites/default/files/inline_images/Lebanon.pdf.
- Gender-Based Violence in the Arab World, *Al Raida Journal*, no. 131-132 (Fall/Winter 2010-2011). Available from <http://iwsaw.lau.edu.lb/publications/al-raida/gender-based-violence-in-the-a.php>.
- Hariri Foundation, *Steps Towards Empowerment: A Legal Report*. Available from <http://www.hariri-foundation.org/admin/document/10.pdf>.
- Human Rights Watch, *Unequal and Unprotected: Women's Rights Under Lebanese Personal Status Laws* (2015). Available from <https://www.hrw.org/report/2015/01/19/unequal-and-unprotected/womens-rights-under-lebanese-personal-status-laws>.
- Human Rights Watch, *Human Rights Watch Submission to the CEDAW Committee of Lebanon's Periodic Report 62nd Session* (2015). Available from http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/LBN/INT_CEDAW_NGO_LBN_19385_E.pdf.
- Human Rights Watch, "Lebanon: Domestic Violence Law Good, but Incomplete" (3 April 2014). Available from <https://www.hrw.org/news/2014/04/03/lebanon-domestic-violence-law-good-incomplete>.
- Human Rights Watch, "Law Reform Targets Honor Crimes" (11 August 2011). Available from <http://www.peacewomen.org/content/lebanon-law-reform-targets>.
- Human Rights Watch, "Enact Family Violence Bill to Protect Women" (6 July 2011). Available from <https://www.hrw.org/news/2011/07/06/lebanon-enact-family-violence-bill-protect-women>.
- International Foundation for Electoral Systems, Status of Women in the Middle East and North Africa Project, *Focus on Lebanon: Women's Freedom of Movement and Freedom from Harassment and Violence*. Available from http://www.ifes.org/sites/default/files/20100218_lebanon_freedom_limits_0.pdf.
- International Labour Office, *Intertwined - A study of employers of migrant domestic workers in Lebanon* (Geneva: ILO, 2016).
- Khoury, N., "Enough Violence: The Importance of Local Action to Transnational Feminist Scholarship and Activism," *Peitho Journal*, vol.18, no.1 (18 October 2015). Available from <http://peitho.cwshrc.org/files/2015/10/18.1Khoury.pdf>.
- National Commission for Lebanese Women, *Women's Rights in Lebanese Laws* (2014).
- Sexual Rights Initiative, *Submission to the United Nations Universal Periodic Review of Lebanon 23rd Session of the UPR Working Group of the Human Rights Council* (2015). Available from http://sexualrightsinitiative.com/wp-content/uploads/SRI_UPR23_LBN_.pdf.
- UNFPA, *Situation Analysis of GBV in Lebanon* (2012). Available from <http://www.unfpa.org.lb/Documents/1-Situation-Analysis-of-GBV-in-Lebanon.aspx>.
- UNFPA, *Review of Gender-Based Violence Research in Lebanon*. Available from <http://www.unfpa.org.lb/Documents/4-Review-of-GBV-Research-in-Lebanon.aspx>.
- UNICEF. *Lebanon, MENA Gender Equality Profile* (2011). Available from <http://www.unicef.org/gender/files/Lebanon-Gender-Equality-Profile-2011.pdf>.
- Zalzal, M. R., Khalife, N., and Ibrahim, G., *Legal Violence against Women in Lebanon: Personal Status and Penal Laws* (Beirut: Dar Al-Farabi, 2008).

