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Re: Information on Lebanon for Consideration by the Committee on the Elimination of Discrimination Against Women at its 62nd Session (26 October 2015 - 20 November 2015)

Dear Distinguished Committee Members,

We respectfully submit this letter to supplement the fourth and fifth periodic report submitted by Lebanon, scheduled for review by the Committee on the Elimination of Discrimination against Women (the Committee) during its 62nd session taking place 26 October – 20 November 2015. Equality Now and our partner in Lebanon, Kafa (enough) Violence & Exploitation, are writing to express our concern about human rights violations faced by women and girls in Lebanon who have been trafficked or exploited in prostitution.

Trafficking and exploitation of prostitution of women is expressly prohibited by Article 6 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), and also violate Articles 2 (right to elimination of discrimination) and 3 (equality).

Kafa is a feminist, secular, Lebanese, non-profit, nongovernmental civil society organization seeking to create a society that is free of social, economic and legal patriarchal structures that discriminate against women. Equality Now is an international human rights organization with ECOSOC status working to protect and promote the rights of women and girls worldwide since 1992, including through our membership network comprised of individuals and organizations in over 190 countries.

In its List of issues and questions in relation to the combined fourth and fifth periodic reports of Lebanon, the Committee noted that the Lebanese government has identified “a number of legal lacunae in the anti-trafficking legislation (Law No. 164/2011), as well as challenges in its implementation”, and asks whether there are “plans to amend the legislation in order to strengthen its penal and protective provisions” (CEDAW/C/LBN/Q/4-5, ¶ 10). The Committee furthermore asks the Lebanese government to ‘provide information on steps taken to review the laws and related decrees, regulations and ordinances that facilitate the sexual exploitation of women, such as the artiste visa scheme’, and to “indicate steps taken to stop treating women engaged in prostitution as criminals” (CEDAW/C/LBN/Q/4-5, ¶ 11). Already in its 2008 concluding observations for Lebanon, the Committee expressed concern about increased reports of trafficking in women and girls and “urge[d] the State party to (...) prosecute and punish traffickers, and ensure the protection of the human rights of trafficked women and girls, including protective measures and legal assistance” (CEDAW/C/LBN/CO/3, ¶ 29).

Equality Now and Kafa’s joint submission to the Committee’s pre-session working group (January 2015)¹, as well as Kafa’s 2008 shadow report² to the Committee, have raised similar concerns. While anti-trafficking legislation was enacted in 2011, we are concerned that the Lebanese government still does not effectively address trafficking and the exploitation of the prostitution of women as required under

Article 6 of CEDAW. Traffickers are not held to account and legislation on both trafficking and prostitution do not adequately address their main root causes, namely demand for sexual services and the criminalization and lack of support and viable alternatives for women. Trafficking to and within Lebanon has been a problem for years and has been exacerbated by the crisis in Syria and the resulting large number of Syrian women and girls in Lebanon. It is vital that the Lebanese government has laws and policies in place that effectively prevent exploitation, protect victims and hold perpetrators to account.

We respectfully call on the Committee to urge the Lebanese government, in addition to ensuring that anti-trafficking legislation is implemented, that laws and regulations which facilitate the commercial sexual exploitation of women are reviewed and that women in prostitution are not criminalized; to also ensure that women in prostitution have access to services and support, including to exit prostitution and obtain alternative livelihoods; and also to target the demand for exploitation by criminalizing those who pay for sex. This is in keeping with other concluding observations of the Committee, where it has called on governments to decriminalize and provide alternatives and support to women in prostitution³, as well as to take measures to reduce the demand for prostitution as a measure to suppress trafficking.⁴ In 2014, the Committee explicitly called on Finland to criminalize the purchase of sex (CEDAW/C/FIN/CO/7 ¶ 21).

These recommendations are in line with Article 6 of CEDAW, which obligates states parties to “(...) take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.” They are also in line with the obligation of Lebanon as a signatory to the Palermo Protocol “to discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking” (Article 9(5)) and to provide services for victims of trafficking, including housing, counseling, medical assistance, and employment opportunities (Article 6(3)). Furthermore, under Strategic Objective D3 of the Beijing Platform for Action, Lebanon committed to “eliminate trafficking in women and assist victims of violence due to prostitution and trafficking”. This includes addressing the “root factors (...) that encourage trafficking in women and girls for prostitution and other forms of commercialized sex (...) including by strengthening existing legislation with a view to providing better protection of the rights to women and girls and to punishing the perpetrators”; allocating resources to “programs designed to heal and rehabilitate into society victims of trafficking”; and considering the enactment of “legislation aimed at preventing sex tourism and trafficking”. The above recommendations therefore follow on from these obligations and commitments rooted in international law and policy.

Implementation of anti-trafficking legislation – holding traffickers to account

We welcome Anti-Trafficking Law No. 164, which was enacted in 2011, as a positive step forward. Through it, the Penal Code is now equipped with a clear definition of the crime of trafficking which is largely in line with the definition set out in the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Palermo Protocol), supplementing the Convention on Transnational Organized Crime.

However, while Anti-Trafficking Law No. 164 sets out strong penalties and sentences on traffickers, and despite the widespread nature of trafficking for sexual exploitation, to date there have been no convictions under this law with regard to sex trafficking⁵. Many law enforcement officers, judges and service agencies are still unfamiliar with the law⁶. Furthermore, trafficking cases are often not recognized as such by relevant authorities, due to the institutional bias and social prejudice that exists against women who have been trafficked. This is in part because women in prostitution (i.e. women selling, or sold for, sex) are criminalized under Article 523 of the Penal Code (discussed in more detail below). In sum, traffickers are not held to account under Anti-Trafficking Law No. 164 because it is not being adequately enforced.

The effective implementation of Anti-Trafficking legislation is also undermined by the fact that there is no national action plan on combating trafficking and protecting victims. There is also no substantial coordination across government agencies and together with civil society organizations, which would facilitate the coordination of efforts at a national level, victim referral and protection, collection and sharing of data, and the review of legislation and implementation of law reform.

Decriminalizing and supporting victims/women in prostitution

Related to the above, problematic laws and regulations on prostitution, which leave victims liable to exploitation and also criminal sanctions, contradict, and are not addressed by Anti-Trafficking Law No. 164.

Indeed, women trafficked for and exploited in prostitution are routinely arrested, detained and – if foreign – deported for crimes committed as a direct result of being subjected to trafficking, and without being screened for trafficking.⁷

Under Article 523 of the Penal Code, the sale of sex is punishable with up to one year imprisonment. Criminalizing the sale of sex only serves to further marginalize women in prostitution, making them more vulnerable to exploitation, including trafficking. Due to the criminalization of the selling of sex, victims of trafficking for sexual exploitation are often perceived by the authorities as criminals instead of victims, and therefore do not receive the support they need and deserve. Any criminal sanctions of women in prostitution, including Article 523, should be removed from Lebanon's legislation.

Anti-Trafficking Law No. 164 also does not ensure the non-criminalization of victims under other provisions, such as residency regulations. The law does not guarantee the non-criminalization of victims for selling sex or violating residency regulations, as well as other acts punishable under Lebanese law, but the burden of proof is on the victim to demonstrate not only that he/she is a victim of trafficking – which is difficult for an individual in a trafficking situation, especially if he/she is a foreigner – but also to prove that he/she was obliged to commit acts punishable by Lebanese regulations such as being engaged in prostitution. Legislation should guarantee that victims are not criminalized for acts committed as a result of their being victims of trafficking.

Moreover, Anti-Trafficking Law No. 164 also did not amend laws and regulations that tolerate and even facilitate the sexual exploitation of women. This particularly includes the Artiste Visa scheme that regulates the entrance and stay of thousands of women to Lebanon each year under the premise of working in the entertainment business or “Super Night-Clubs”, but in fact often results in their exploitation in prostitution⁸. According to the US State Department, in 2014, approximately 3,400 women entered Lebanon under this scheme, “which sustains a significant sex trade and enables forced prostitution”.⁹

In conclusion, under current legislation which facilitates the exploitation and allows for punishment of women who have been trafficked or exploited in prostitution, the Lebanese government does not adequately address prevention or protection and ensuring the human rights of victims.

Reducing demand for exploitation

The Government of Lebanon does not take measures to reduce demand for commercial sex within Lebanon, nor does it address demand for sex tourism involving children¹⁰ or adults by Lebanese nationals abroad. Demand is not addressed in Anti-Trafficking Law No. 164, or elsewhere in Lebanon's legislation. Lebanon is considered a sex tourism destination in the region. In its 2014 report on *Exploring the Demand for Prostitution*¹¹, KAFA notes that despite the prevalence of prostitution in Lebanon and the authorities' awareness of the industry, buyers of commercial sex, who fuel the commercial sexual exploitation and trafficking of women in Lebanon, are not criminalized in any way and no demand-reduction measures are put in place. Yet, under Article 9(5) of the Palermo Protocol, the Lebanese government is obligated to discourage “the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking.” Prostitution and sex trafficking are inextricably linked. Demand fuels both sex trafficking and the commercial sex industry. In any market, if there is no demand, there would be no supply. Placing the responsibility on buyers of commercial sex would reduce the demand for commercial sex, which would reduce the supply of women for prostitution as pimps and traffickers would not profit from exploiting them in order to meet the demand posed by buyers.

Conclusion

Lebanon's existing laws on trafficking and prostitution do not adequately address prevention, protection and prosecution of the trafficking and exploitation in prostitution of women as required by Article 6 of CEDAW. Traffickers are not held to account under Anti-Trafficking Law No. 164, partly because the government has not taken measures to ensure that members of law enforcement and the judiciary are aware of, and well-trained on the law. At a more fundamental level, the legislation currently in place on trafficking and prostitution do not address their root causes, particularly the demand for exploitation of women in prostitution as well as decriminalization and the provision of support and viable alternatives to those in prostitution.

Suggested Questions for the State Party's Session

We respectfully urge the Committee to raise with the Lebanese government during its review session the following questions with regard to violations of the Convention addressed in this letter:

- How is the government ensuring that Anti-Trafficking Law No. 164 is being enforced and that traffickers are punished, including through trainings of relevant authorities to promote adequate knowledge a of the law?
- What are government's plans to remove provisions in Lebanese laws and regulations that facilitate the exploitation of trafficking in women and girls, including the Artiste visa scheme?
- What are the government's plans for removing criminal sanctions against those exploited in prostitution, including victims of trafficking for sexual exploitation, and providing them with assistance, including to exit prostitution?
- What steps is the government taking to discourage the demand that fuels trafficking and commercial sexual exploitation and to hold buyers of commercial sex to account, with a view to criminalizing the purchase of sex in the long term?
- What are the government's plans to adopt a national plan of action on combating trafficking and establishing a multi-agency coordination mechanism to coordinate national efforts?

Proposed Recommendations

We respectfully urge the Committee to call on the Lebanese government in its Concluding Observations with regard to violations of the Convention addressed in this letter, to:

- Ensure that Anti-Trafficking Law No. 164 is enforced and that traffickers are punished, including through trainings for relevant authorities to promote adequate knowledge of the law.
- Remove the provisions in the Lebanese laws and Lebanese regulations that facilitate the exploitation and trafficking of women and girls, and in particular the Artiste visa scheme.
- Repeal Article 523 of the Penal code and amend Anti-Trafficking Law No. 164 to better protect victims of prostitution and trafficking and guarantee their non-criminalization and ensure that women in prostitution and victims of trafficking are provided with assistance, including to exit prostitution if they wish to do so.
- Amend the Anti-Trafficking Law No. 164 to criminalize the purchase of sex, in order to discourage the demand that fuels trafficking and commercial sexual exploitation and to hold buyers of commercial sex to account.
- Adopt a national plan of action on combating trafficking and establish a multi-agency coordination mechanism, including government authorities/ministries and civil society, in order to coordinate national efforts, collect and share data, refer and protect victims, and review legislation and implement law reform.

Thank you for your kind attention, and please do not hesitate to contact us if we can provide further information.

Sincerely,


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Equality Now


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Co-founder, Head of the Exploitation & Trafficking in Women Unit
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¹ Equality Now and KAFA (2015), Information on Lebanon for Consideration by the Committee on the Elimination of Discrimination Against Women at its 62nd Pre-Sessional Working Group (9-13 March 2015), available at: http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/LBN/INT_CEDAW_NGO_LBN_19264_E.pdf

² KAFA (2008) Shadow Report on Article 6 to the 40th CEDAW Session, available at: <http://www2.ohchr.org/english/bodies/cedaw/docs/ngos/KAFA.pdf>.

³ See e.g. CEDAW Committee, Concluding Observations: Bahamas, para 26(e), U.N. Doc. CEDAW/C/BHS/CO/1-5 (2012) (calling on the Bahamas to “Review its prostitution policy and relevant legislation...with a view to decriminalizing women’s involvement in prostitution, ensuring that women involved in the sex trade are not punished and discouraging male demand for prostitution;”), and CEDAW Committee, Concluding Observations: Republic of Korea, para 23(d), U.N. Doc. CEDAW/C/KOR/CO/7 (2011) (calling on Korea to “Review its prostitution policy and relevant legislation, including the Criminal Code, with a view to decriminalizing women’s involvement in prostitution and ensuring that women involved in the sex trade are not punished;”), CEDAW Committee, Concluding Observations: Cameroon, para 21(g), U.N. Doc. CEDAW/C/CMR/CO/4-5 (2014) (calling on Cameroon to “Review the Penal Code with a view to decriminalizing women engaged in prostitution; adopt measures aimed at discouraging male demand for prostitution; address the root causes of prostitution, provide women with alternative income opportunities, and provide assistance, rehabilitation and reintegration programs for women and girls exploited in prostitution, as well as exit programs for women wishing to leave prostitution”), CEDAW Committee, Concluding Observations: Iraq, para 32(d), U.N. Doc. CEDAW/C/IRQ/CO/4-6 (2014) (calling on Iraq to “Review its relevant legislation ... in order not to criminalize women in prostitution, ensure that women involved in the sex trade are not punished, and provide them with livelihood opportunities to leave prostitution”), and CEDAW Committee, Concluding Observations: Qatar, para 26(f), U.N. Doc. (CEDAW/C/QAT/CO/1) (2014) (calling on Qatar to “Review relevant legislation and regulations in force to decriminalize women in prostitution and take a comprehensive approach to addressing the question of prostitution, including exit programs for women who wish to leave prostitution”).

⁴ See e.g., CEDAW Committee, Concluding Observations: Republic of Korea, para. 23(f), U.N. Doc. CEDAW/C/KOR/CO/7 (2011) (calling on the Republic of Korea to “[t]ake appropriate measures to suppress the exploitation of prostitution of women, including by discouraging the demand for prostitution”); CEDAW Committee, Concluding Observations: Denmark, para. 35, U.N. Doc. CEDAW/C/DEN/CO/7 (2009) (calling on Denmark to “strengthen measures aimed at addressing the exploitation of prostitution in the country and, in particular, the demand for prostitution”).

⁵ Only a handful of convictions have been obtained for trafficking overall, including for other forms of exploitation (US State Department, 2015 Trafficking in Persons Report, p. 219).

⁶ See also US State Department, 2015, Trafficking in Persons Report, p. 219, which notes that ‘judicial officials were unaware of the anti-trafficking law and how to apply it, thus many trafficking offenders were not brought to justice’.

⁷ See US State Department, 2015 Trafficking in Persons Report, pp. 219-220.

⁸ Huda, Sigma, Report of the Special Rapporteur on Trafficking in Persons, Especially Women and Children, Mission to Lebanon, E/CN.4/2006/62/Add., United Nations, 20 February 2006.

⁹ US State Department, 2015 Trafficking in Persons Report, p. 219. Available at: <http://www.state.gov/documents/organization/243560.pdf>.

¹⁰ US State Department, 2015 Trafficking in Persons Report, p. 220.

¹¹ Jabbour, G. (2014) Exploring The Demand For Prostitution: What Male Buyers Say About Their Motives, Practices, and Perceptions. KAFA (enough) Violence & Exploitation. Available at: <http://www.kafa.org.lb/StudiesPublicationPDF/PRpdf-69-635469857409407867.pdf>