



This report is submitted as a supplement to the Replies of Lebanon on the List of issues and questions in relation to the combined fourth and fifth periodic reports of Lebanon (herein after referred to as List of issues and questions)

Paragraph 1 in the List of Issues and questions requiring information as to whether Lebanon is taking steps to amend its constitution and/or to adopt legislation prohibiting discrimination against women and guaranteeing equality on the basis of sex, and although the preamble of the constitution provides for “equality and rights and duties among all citizens without discrimination on preference,” and although Article 7 of the Constitution states “All Lebanese are equal before the law”- as mentioned by the replies of Lebanon, however, Article 9 of the constitution gives the legally recognized confessional communities the right to regulate their own communities, as it says:

“There shall be absolute freedom of conscience. The state in rendering homage to the God Almighty shall respect all religions and creeds and shall guarantee, under its protection the free exercise of all religious rites provided that public order is not disturbed. It shall also guarantee that the personal status and religious interests of the population, to whatever religious sect they belong, shall be respected”.

In spite of some differences between the law of one community and the other, all these personal status laws discriminate against women and put them in a subordinate position, paving the way in front of major inequalities and even violence to take place against women. A report published by Human Rights Watch in January 2015 clearly stated that “*religion-based personal status laws discriminate against women across the religious spectrum and don’t guarantee their basic rights*”¹

Besides, article 19 of the constitution gives the leaders of the recognized confessional communities the right to consult the Constitutional Council in connection with matters of personal status, freedom of belief, practice of religious rites and freedom of religious education. Thus they have the power and means to confront any law that might jeopardize their authority and introduce changes to the status of women within those communities. Article 19 reads as follows:

“A Constitutional Council shall be established to supervise the constitutionality of laws and to arbitrate conflicts that arise from parliamentary and presidential elections. The President of the republic, the speaker of Parliament, the Prime Minister, along with any ten Members of Parliament, have the right to refer to this Council matters that relate to the constitutionality of laws. The officially recognized heads of religious communities have the right to refer to this Council laws relating to personal status, the freedom of belief and religious practice, and the

¹ “Unequal and Unprotected: Women’s Rights Under Lebanon’s Religious Personal Status Laws,” www.hrw.org/news/2015/01/19/lebanon-laws-discriminate-against-women

freedom of religious education. The rules governing the organization, operation, composition of the Council and referral thereto shall be decided by a special law”.

Given the fact that there is no civil law regulating the personal status affairs, **we respectfully call on the committee to urge the Lebanese state to i) amend all articles in the constitution that pave the way in front of major discriminatory laws against women, ii) enact a civil law that guarantees equality between men and women in matters related to familial relationships, and place all women in Lebanon in an equal position in front of the law.**

Paragraph 2 and paragraph 8 in the List of issues and questions related to discriminatory provisions in the Penal Code, such as to criminalize marital rape (paragraph 2) and Violence against women (paragraph 8),

Since 2008, KAFA, along with the National Coalition for Legislating the Protection of Women from Family Violence” have been lobbying for the adoption of a civil draft law: “Law to Protect Women from Family Violence”: The main purpose of the law was to address the gender based violence perpetrated against women through protection measures that allow them to overcome the main obstacles they face while accessing justice, and to protect all women regardless of their religious affiliations. Thus, the law was meant to be a part of the penal civil code, without having any overlap with the religious personal status laws.

However, the draft law was approved by the Council of Ministers in 2010 after introducing an article stating that in case of contradiction of the articles of this law with the personal status laws, the latter would apply. The draft law was transferred to the Lebanese Parliament and in 2012, the parliamentary joint committees formed a sub-committee to study the law again. As the draft law reached the parliament, a furious anti-campaign was launched by some religious leaders which led the parliamentary subcommittee to introduce many amendments to the draft law. Although the above mentioned article introduced by the Council of Ministers was deactivated under the pressure of the civil society, however other provisions were introduced that distorted the main aims of the law, and linked again some of its articles to the personal status laws. The final version was approved unanimously by the general assembly on the 1st of April 2014 – Law No. 293, with the following distortions:

- a- Title of the Law: Changing the title of the law to become “Law to Protect Women and Other Family Members from Family Violence”: Under the pretext that men were also subjected to violence, and that the parliament cannot endorse a discriminatory law, the law was generalized to cover in its protection measures all family members, including men, disregarding the legal advantages that men enjoy within the personal status laws, that give them a lot of power over their female relatives!

Although the word “women” was reintroduced again in the title of the law, (after an attempt to remove it), giving the impression that the Committee has fulfilled its duty to protect women, however, no special protection measures for women were reflected in the text of the law which remained to be a general text, allowing men to have extra bonuses, taking advantage of the new law.

The protection measures provided for in the draft law had reflected the needs of

women and aimed at removing all the obstacles they encounter should they decide to lodge complaints. **We respectfully ask the committee to urge the Lebanese state to keep the sections related to the protection measures specific to women.**

b- Article 2 & 3: Identification of crimes of family violence:

Article 2 of Law 293 defines “family violence” as “any act, refrainment from acting, or threat committed by a family member against one or more family members – as defined in the definition of the family – that entails an offense stipulated in this law and results in homicide or physical, psychological, sexual or economic harm”

However, Article 3 of the law lists a few number of family violence crimes, without listing other crimes sanctioned by the Penal Code, and without clearly referring those other crimes to the penal code so that they would be covered by Law 293.

Thus, **we recommend that the law would be amended in such a way that the section on penalties be referred to the Penal Code as established in the original draft law presented by the civil society.**

c- Article 3 (7) (a) & (b) Marital Rape:

The draft law presented by the civil society included two articles criminalizing marital rape. The parliamentary sub-committee, and under the pressure of religious leaders, tried to delete all articles related to marital rape, considering that there is nothing called rape within a marriage relationship. However, and due to civil society’s lobbying campaigns, two articles were reintroduced - Article 3 (7) (a) & (b), that criminalizes the use of violence or threat to get what they called “marital rights”.

The two clauses state as follows:

Article 3 (7)(a): Whoever shall, with the purpose of claiming his/her marital right to intercourse, or because of the same, intentionally beat or harm his spouse, shall be punished pursuant to Articles 554-559 of the Penal Code. Repeating the beating or harm may result in the imposition of a more severe sanction pursuant to Article 257 of the Penal Code. The plaintiff’s withdrawal shall suspend the civil party’s petition in the cases subject to Articles 554 and 555 of the Penal Code. The provisions governing a relapse or a repeated offense shall remain enforced, provided the conditions relevant thereto are found.

Article 3 (7)(b): Whoever shall, with the purpose of claiming his/her marital right to intercourse, or because of the same, threaten his spouse, shall be punished pursuant to Articles 573-578 of the Penal Code. Repeating the threat may result in the imposition of a more severe sanction pursuant to Article 257 of the Penal Code. The provisions governing a relapse or a repeated offense shall remain enforced, provided the conditions relevant thereto are found.

These two clauses introduce, and for the first time, a religious concept considering intercourse as a “marital right” in a civil law applicable to all Lebanese. At the same time, the articles criminalize the harm that comes with the coercion and not the coercion per se. The text as written is unnecessary since the Penal Code criminalizes

beating and harming under any circumstances.

We call upon the Committee to urge the Lebanese state to remove these two articles and amend Article 503 in the Penal Code in such a way that it no longer excludes marital rape.

d- Article 12 & the protection of children within the Protection Orders.

Article 12 stipulates the following:

“The protection order is a temporary measure initiated by the relevant legal authority pursuant to the provisions of present law with regards to the cases of family violence. The protection order is aimed at protecting the victim, her children and the descendants living with her and exposed to threat, the social workers, the witnesses or whoever provides the victim with assistance in order to stop the violence or the threat to report the same. Pursuant to the present law, Children shall mean those who are in the custody of the victim as established in the applicable personal status laws”

In addition to the fact that the provisions on custody cannot be applied except when the couple is divorced or separated, the present text excludes children, who are not directly exposed to violence, from the scope of the protection orders issued for their mothers, when custody does not belong to her according to the personal status laws. Thus, for the second time, reference is made to religious concepts and laws within a civil law. Referring to the provisions of custody, to involve or not children in protection orders, causes discrimination between children, and also between boys and girls within the same family, as the age of custody differs between one sect and another, and between boys and girls in some of the sects.

Moreover, pursuant to Law number 422 related to the Protection of at-Risk children, and as per the provisions of the Convention on the Rights of Children, protection applies to children below the age of eighteen years. The drafting of Article 12 above goes beyond the said Law and causes confusion in the implementation of the Article which will delay the issuing of the protection related decision. In the event of a conflict between two custody related sentences, the designated judge shall suspend the case until the conflict is solved by the Court of Cassation, a delay that definitely does not comply with the emergency nature of the protection orders.

Abiding by the principle of nondiscrimination, and by the general understanding that children witnessing violence are also victims of violence, the protection measure must include the children regardless if they are in the custody of the victim or not. **Thus, we call upon the committee to urge the Lebanese state to delete the condition related to custody: “Pursuant to the present law, Children shall mean those who are in the custody of the victim as established in the applicable personal status laws”**

e- Article 13 on the legal authority issuing the Protection Orders

Article 13 stipulates the following:

“The protection request shall be filed before the Investigating Magistrate to whom the case is entrusted or before the competent Penal Court. In the last case, it shall be examined in the deliberation room.

Under all circumstances, an urgent request may be lodged before the Judge in Chambers. ...”

Thus, Law 293 restricts the mandate of issuing protection orders to the Judge in Chambers or the Investigating Magistrate, which means that women will incur a financial burden because lodging a complaint directly before the judge is very costly and in both cases women should be assisted by an attorney at law. The Bill, as submitted by the civil society and approved by the Cabinet, stipulates that the protection seeker shall lodge a request before the Public Prosecution because it was found that when violence occurs women seek the help of the public prosecution either directly or through police stations, as public prosecution is the fastest and least expensive refuge.

Therefore, we recommend keeping the Public Prosecutor in charge of issuing the protection orders.

f- Paragraph 8, and in reply to the committee’s request for information on the number of female homicide victims, and the number of convictions and sentences, KAFA documented 33 cases between 2010 & 2014. Although most of the perpetrators have been arrested and indicted under maximum charges by investigation judges and indictment courts, however, all these cases are still under trial at the Lebanese courts, and not one final verdict was issued until the date of writing this report (September 2015). Many of the families of victims remain fearful of giving the perpetrators alleviating circumstances.

While the families of the victims are worried about decisions that might arrive late or unfair, some cases (like the case of Roula Yaacoub) did not even reach this stage. The investigating judge bestowed upon Roula's killer a decision to prevent any trial. The criminal prosecution court in Tripoli accepted the appeal. But it is yet to decide after the lone session it held in September 2014. Christelle Abou Chakra's abuser also roams free, for lack of evidence of a crime he caused in any case. The fate of other cases is still unknown.

We call upon the committee to urge the Lebanese state to demand expedited trials for those accused of killing women, and to impose stricter punishment for murderers and for establishing a specialized family court that would prioritize cases of family violence crimes.

Paragraph 21 Child marriage

In Paragraph 21 of the List of Issues and questions, the committee asked for the provision of information on measures taken to eliminate the harmful practice of child marriage.

In its reply on this paragraph, the NCLW mentioned that it presented to the parliament a “proposed law subjecting the marriage of minors to the prior authorization of a juvenile judge under the heading of the State’s duty to protect minors”.

However, the proposed law does not guarantee the protection of minors from early marriage, since its main aim is, and as its title indicates, to “regulate minor marriages in Lebanon”, and not to ban early marriages.

Besides, and if passed, this law will have a serious backlash on the civil state in general, through enhancing the laws of the confessional authorities and getting them endorsed by the parliament, providing a legal justification for and approval of marrying girls at 9 or 12 years old. Although the draft law requires that the juvenile judge hears the minor before a marriage is allowed, to ensure his/her consent, it is very well known that consent is not real when it concerns minors.

We respectfully urge the Committee to call on the Lebanese state to set a minimum age of marriage at 18 years old for all boys and girls regardless of their religious affiliation, and to allow, in special cases, for early marriages at 16 years old, with prior approval of the juvenile judge as proposed by the NCLW draft law.