

Universal Periodic Review of LEBANON

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Joint submission by: Arab Foundation for Freedoms and Equality -
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Executive Summary

1. This report outlines the current situation in relation to Lebanon's international obligations as well as its national laws, policies and practices related to specific issues around human rights related to gender and sexuality.

2. It describes the human rights situation with particular reference to: whispered discrimination and violence against women; the rights of gay, lesbian, bisexual and transgender (LGBT) people and stereotypes that contributes to violations to their rights. It provides concrete recommendations to the state on how to address these issues in the line with international legal obligations. The goal of this submission is to encourage the Lebanese government to take concrete steps to improve the environment for women and the LGBT populations in Lebanon.

Progress and gaps in the implementation of recommendation from 1st cycle of UPR

3. The revision of human rights records of Lebanon through the Universal Periodic Review mechanism concluded by the Human Rights Council plenary session on 10th of November 2010, during which, Lebanon received 123 recommendations in total, accepted 69 of them and rejected 40, and put 14 for consideration until March 2011 where 6 were only accepted¹.

4. Among them, Lebanon received recommendations related specifically or concurrently to sexual rights and reproductive rights. In general, concerns and recommendations made by states have, for the most part, neither been implemented nor followed up on. They include shortcomings of rule of law institutions, lack of accountability for human rights violations and thus ensuring impunity.

5. It is worth to highlight that the 82.21 made by Norway, recommending decriminalize homosexuality and ensure non-discrimination on the basis of sexual orientation and gender identity was not accepted by Lebanon.

Background Situation

6. Lebanese society still lives under a traditional and patriarchal system and this context facilitate that particularly women and LGBT people suffer from legalized discrimination and therefore, great amount of violations of their rights in both the law and the culture are evidence in Lebanon.

7. The Lebanese state continued to deny women the enjoyment of basic rights such as the rights to health, sexuality, freedom of expression, among others, in all instances, particularly in marriage, divorce, and all family matters.

¹ A/HRC/16/18 <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G11/102/11/PDF/G1110211.pdf?OpenElement>

8. Discrimination against Lebanese women extends to the penal code, in which, issues like marriage, adultery, rape, abortion are clear violations to their rights, as well as compromises their safety and often legitimizes violence against them.

9. Official and societal discrimination against LGBT people still persists and is supported by the legal system. There is no all-encompassing antidiscrimination law to protect LGBT persons. The law prohibits "unnatural sexual intercourse," an offense punishable by up to one year in prison but it is rarely applied. Additionally discrimination, persecution and violence are evidence in many ways such as arbitrary detentions, blackmailing, police and medical practices, among others.

Criminalization of Homosexuality

10. Article 534 of the Lebanese Penal Code criminalizes "unnatural sexual intercourse," which is punishable by up to one year of imprisonment. This article is often used to persecute gay and transgender people in Lebanon and constitutes a clear violation of human rights that contrasts with many of the rights recognized in the Preamble of the Lebanese Constitution, such as respect for individual liberty, equality before the law, and the respect of the liberty and privacy of a home.

11. This article is still in force, although two significant rulings were made against it in the past five years. One of them states: "Consensual same-sex relations are not "unnatural" and therefore shouldn't be subjected to legal penalty"². The other took a step forward by rejecting a case against a transgender woman and stating that: "Gender identity is not only defined by the legal papers; the evolution of the person and his/her perception of his/her gender should be taken into consideration."³

12. Despite these two rulings, police persecution of LGBT people did not stop, 30 people were arrested since the last ruling⁴.

Recommendations

The State of Lebanon should:

13. Decriminalize homosexuality by abolishing the Article 534 from the Penal Code.

Torture against gay men

14. In the past round of UPR, Lebanon received recommendations related to torture; ill treatment; cruel, inhuman and degrading treatment at police stations and prisons⁵. Lebanon claims that those recommendations are already implemented or in the process of implementation, however torture is repeatedly reported at police stations, especially against gay men.

15. Invasive examinations, which involve the insertion of a metal egg-shaped object into the rectum, are carried out on men suspected of being gay by doctors hired by judicial police's Moral

² Verdict by Judge Mounir Sleiman, Batroun, Lebanon, 2009.

³ Verdict by Judge Naji El Dahdah, Jdeide Court, Beirut, Lebanon, 2014

⁴ <http://english.al-akhbar.com/node/21131>

⁵ Recommendations 80.15; 81.4 and 81.5

Protection Bureau⁶.

16. Under the pressure of civil society, the doctor that head the Lebanese physicians' association⁷ announced that these practices violate the Lebanese law and medical ethics and that any doctor conducting these tests would face disciplinary measures.

17. In 2012 the ministry of interior issued a circular asking police station not to conduct these tests⁸. Despite these two reactions, general attorneys are still ordering anal examination in order to "prove" homosexuality, and policemen often use it as a way to intimidate men suspected to be homosexuals⁹.

18. In 2014, more than 15 cases of physical violence took place, mostly by policemen or inmates against arrested Syrian gay men. Although the police denied that any orders of torture were given to the policemen, no disciplinary measures were taken against the perpetrators.

19. Most of the arrested gay men in 2014 had their phone confiscated by policemen in order to blackmail their contacts; LGBT organizations in Lebanon reported these incidents with no official response from the Ministry of Interior.

Recommendations

The State of Lebanon should:

20. Implement as soon as possible a national plan to provide training and sensitization on human rights issues, including LGBT rights, to judiciary, law enforcement officers and police in order to eradicate homophobia, discrimination and violence in these institutions.

21. Take the necessary steps to eradicate torture, ill treatment; cruel, inhuman and degrading treatment at police stations and prisons, in particular against LGBT persons.

22. Implement awareness-raising campaigns and open a dialogue about culture and human rights to guarantee that no human rights violations will be perpetrated against anyone –including LGBT people- under the name of culture, tradition or nature.

Discrimination and Violence against Women

23. During the 1st cycle of the UPR, Lebanon received specific recommendations focused on violence and discrimination against women, domestic violence and gender equality¹⁰. One of them specifically recommended passing legislation to strengthen reporting on, and investigations of, incidents of family violence and to increase protections for victims¹¹.

⁶ In 2012, 36 men believed to be engaging in gay sex were arrested. A doctor at the morality police station –Hbeish – conducted invasive anal examinations to ascertain whether they had been having "unnatural" intercourse,

⁷ Dr. Sharaf Abu Sharaf

⁸ <http://www.gaystarnews.com/article/lebanon-justice-minister-says-anal-probe-exams-must-end010912>

⁹ <http://www.dailystar.com.lb/News/Lebanon-News/2014/Jul-16/264004-banned-anal-exam-still-being-used-as-homosexuality-test.ashx>

¹⁰ Recommendations 80.22; 80.23; 80.24; 80.25

¹¹ Recommendation 80.22 made by Australia

24. In 2014, after the pressure of civil society, the media and several protests organized in Beirut, Lebanon did indeed pass a law against domestic violence. However this law remains incomplete since it did not recognize marital rape. Women's rights organizations denounced that several distortions were made in the law originally elaborated by civil society¹².

25. Additionally, lesbian women are criminalized under article 534 of Penal Code; therefore when they are victims of rape or violence do not report these violations fearing persecution from the police.

26. Despite approving recommendations related to women rights, the Lebanese law is far from insuring equality between man and women, especially in issues related to sexual and bodily rights. Civil marriage in Lebanon is still not recognized, because confessional laws regulate the personal status¹³. Therefore the personal status law depends on various religion laws that give more rights to men than to women.

27. Lebanese State defines sexual practices and relationships to those between two married heterosexual persons with the intention of reproducing. Consent is not a prerequisite since the country does not recognize marital rape.

28. The Lebanese Penal Code defines rape as a forced sexual act committed by anyone, other than the husband; in this way it legalizes marital rape¹⁴. The Penal Code also allows a rapist to escape his punishment if he offers to marry the victim¹⁵.

29. Women who have committed adultery can be imprisoned for three months to two years for having consensual sex with someone other than their husband. Her partner receives the same punishment if he is married and a lesser sentence of one month to a year if he is unmarried¹⁶.

30. Abortion is criminalized in Lebanon¹⁷ with very few exceptions related to woman's health. This prohibition encourages clandestine abortions that take place in private clinics, and very often without respecting medical norms.

Recommendations

The State of Lebanon should:

31. Amend articles 487, 488, 503-506, 522, 539-546 of the Penal Code that criminalizes adultery, abortion and that not punish marital rape.

32. Develop and implement legislation to criminalize all forms of violence against women, including marital rape, and provide reliable and safe services and shelters for abused women.

33. Take the necessary legislative steps for the enactment of a marriage, divorce, and family relationships bill that fully recognize women's rights, and promptly carry out its provisions

¹² <http://www.hrw.org/news/2014/04/03/lebanon-domestic-violence-law-good-incomplete> Abort

¹³ The Lebanese law recognizes 18 confessions and grants the authority to religious courts.

¹⁴ Lebanese Penal Code, Articles 503-506

¹⁵ PC, Article 522

¹⁶ PC, Articles 487- 488

¹⁷ PC, Articles 539-546

together with relevant ministries and government agencies.

Right to health

34. Homophobia and social stigma remain the main obstacles that complicate the access to health care system for LGBTI persons¹⁸. Although the national aids program integrated homosexuality in the national strategy, no practical steps were taken in order to affect national policies and the general perception of the vulnerable population; therefore the national aids program has been mostly focused on direct service provision.

Recommendations

The State of Lebanon should:

35. Introduce rights-based, non-discriminatory guidelines and trainings for health workers to better protect the healthcare, human rights and needs of all persons in Lebanon, particularly of LGBT people.

36. Implement national health gender-sensitive policies and programs to guarantee the right to health -including sexual and reproductive health- to all persons, especially to LGBTI people.

Right to Freedom of Association and Expression

37. Despite the recommendations received during the first cycle of UPR related to these rights, Lebanon is not fulfilling its commitments toward them. The Lebanese State does not acknowledge the right of LGBT individuals to create organizations and ask for their rights¹⁹.

38. Movies and magazines and other media and art productions with sexuality related material are often censored by the general security²⁰. At least 14 movies, five theatre play, one art exhibition were censored partially or completely and two bloggers were questioned by the police during 2014.

Recommendations

The State of Lebanon should:

39. Implement the necessary policies and regulations to allow the legal registration of LGBT organizations.

40. Ensure that the legislation and the policies that regulate freedom of expression in the media and the arts -including the sexuality related material- accord with international human rights standards.

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¹⁸ <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3742541/>

¹⁹ Helem, the first LGBT organization in the Arab world is not officially registered yet.

²⁰ www.marchlebanon.org