



THE A PROJECT

AGENCY
AUTONOMY
ALTERNATIVES



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LEBANON

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This report is submitted by: theAproject (1), the Center for Reproductive Rights (2), and the Sexual Rights Initiative (3). It addresses gender equality and sexual and reproductive rights in Lebanon and makes references specifically to family violence, marital rape, personal status law, rights of LGBT persons, contraception and safe abortion.

I. Background

1. Lebanon has ratified all major UN Conventions, specifically the Convention on the Elimination of All Forms of Racial Discrimination (in 1997 with some reservations(4)), the International Covenant on Civil and Political Rights (ICCPR), the Convention against Torture, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) (with reservations), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Rights of the Child (CRC), the ILO Convention concerning equal remuneration for men and women workers for work of equal value and the Convention on the political rights of women. Lebanon is not part to the 1951 Refugee Convention and its protocol.

2. Despite a surge in public awareness around women's rights during 2010-2015 following decades of campaigning by women's rights organizations, the Lebanese government has failed to address pressing issues raised by civil society including, women's right to confer nationality, protection from gender-based violence, revising gender-discriminatory sexist laws governing sex and sexuality, a unified civil personal status law that ensures gender equality, in addition to protection and decent living conditions for migrant domestic workers and refugees. Lebanon has accepted UPR recommendations pertaining to the adoption of a law on domestic violence and to the abolition of honor crimes during the 1st UPR cycle and has indeed implemented these recommendations to a certain extent(5). However, the Lebanese state has rejected recommendations pertaining to women's right to confer their nationality to their family, to lifting its reservations to the CEDAW convention, and to amend personal status laws (6).

II. Gender-Based Violence and Laws Pertaining to Rape

3. In April 2014, the Lebanese Parliament ratified the Law on the Protection of Women and Family Members Against Domestic Violence (7). While this was a major step forward to enabling protection and reporting mechanisms, and policies for women facing abuse from family members, the Parliament failed to secure full rights for women (8). Article 2 of the law narrowly defines violence against women (9), fails to criminalize marital rape, and introduces the concept of 'marital rights to sex' (10). Additionally, the bill introduced by a coalition of civil society organisations was amended and the focus of the law shifted from protection of women from VAW (The Law to Protect Women from Domestic Violence) to the protection of all members of the family (The law on the Protection of Women and Family Members against

Domestic Violence), thus denying the specific discrimination and human rights violations faced by women within the family because of their gender and because of the already oppressive personal status laws (11).

4. On August 4, 2011, Lebanese Parliament followed up on the recommendation to delete reduced sentences for “Honor” crimes, abolishing article 562 of the penal code (12, 13). While this measure was long overdue, women’s organizations welcome this as a positive step towards abolishing all discriminatory articles in the penal code.

5. The Lebanese government has failed to delete Article 522 of the Lebanese Penal Code, which offers reduced sentences for rapists who marry their victims. In doing so, the government is responsible for upholding a culture of impunity and complicity with sexual violence against women. Additionally, Article 503 has long been contested by civil society because it criminalizes rape using the narrow legal definition of ‘forced sexual intercourse perpetrated by a man on a woman who is not his wife’ and explicitly excludes marital rape (14).

Recommendations - The Lebanese state should:

- a. Revise the Law on the Protection of Women and Family Members Against Domestic Violence immediately and adopt the original bill prepared and submitted by the coalition of 41 civil society organisations to include: a specific focus on the human rights violations and discrimination suffered by women within the family, gender specificity of the law, granting of child custody for women facing violence, criminalisation of marital rape and the removal of the concept of ‘marital rights to sex’, and legal prominence over the personal status law.
- b. Repeal Article 522 immediately, which offers reduced sentences for rapists who marry their victims.
- c. Amend Article 503 to criminalize marital rape and widen the definition of rape to include all invasions of a sexual nature under circumstances that are coercive.

III. Sexual Orientation and Gender Identity

6. Gender non-conforming individuals still suffer unjust and arbitrary incarcerations related to their gender expression under claims of impersonation due to missing or misrepresentative identification papers in Article 469 (15), offending public decency in Articles 209, 531, 532, 533 (16), “masquerading” as women to access female-only spaces in Article 521 (17), sex work in Articles 523, 524, 526, 528 (16), and suspicion of homosexual conduct and/or appearance of homosexuality in Article 534 (16).

7. Article 534 of the penal code regards any sexual activity deemed ‘against nature’ as a punishable offense with a sentencing of up to one year of imprisonment which stands in stark violation of the many international human rights treaties (18) that the Lebanese government has signed. Recently, this article was used in a raid that closed down a porn cinema and detained 35 men in the area of Bourj Hammoud at the end of July 2012 (19), and again in August 2014 with 24 men in Beirut’s Al Agha Hammam (20). In the former, the arrested men were subjected to demeaning and tortuous anal probe “gay tests” (21). In the latter, the arrestees were beaten to draw out confessions as well as forced to undergo HIV and illegal drug tests at the arrestees’ expenses. The officers even falsified a positive HIV test result to scare an arrestee (20).

8. On April 20th, 2012, the Mayor of the Municipality of Dekwaneh, Antoine Chakhtoor, closed down a club because of ‘public immorality’, detained Syrian gay men and took a transwoman for questioning in his private chambers. The mayor, with the support of municipal police forces, forcibly stripped her of her clothes, took photos of her and proudly exhibited her photographs on national television to prove that her gender was confusing and misleading (22). This unlawful, degrading and abusive treatment by the mayor was not met with any official reprimand (23).

9. While mainstream media, the law, religious institutions, and social norms view non-heterosexual and non-heteronormative persons as deviants, the most vulnerable are those who are non-Lebanese, currently Syrian, and/ or transgender individuals. When most raids take place Lebanese citizens who are not impoverished might pay their way out of imprisonment, while others who suffer racism and transphobia have less protection, are further detained, deported, unjustly charged with other crimes, and subjected to violence, torture, and degrading treatment.

10. Following many civil society protests and a recommendation by the President of the Syndicate of Physicians, the Minister of Justice released a statement(24) on August 11, 2012 deeming anal probing as a “gay test” to be medically irrelevant and prohibiting all forensic physicians from performing it on persons suspected of homosexuality. However, despite these improvements, detention, incarceration and sexual abuse, especially against marginalized populations, still occur in Lebanon (23, 25) with impunity.

11. Engaging in sex work is not truly a choice of all transpersons engaged in it to ensure livelihood, as many find it difficult to find formal work due to having to produce their identification papers and disclose their biological sex when applying for a job . Many transpersons endure harassment while trying to update the photograph on their identification papers, and even if that obstacle is bypassed many employers still do not accept the perceived incongruence between the gender exhibited in the photo and biological sex. Many transpersons have to work without employment contracts, and might be denied regular payment for their

work, receive lower salaries than deserved, get fired without notice or reason, receive no compensation, and cannot litigate this discrimination against them (26).

Recommendations - The Lebanese state should:

- a. Abolish Article 534 of the Penal Code that criminalizes homosexuality.
- b. Take all necessary measures to provide protection from all forms of violence and harassment related to sexual orientation, gender identity and gender expression.
- c. Guarantee non-discriminatory treatment and prevent and remedy abuse of power by police and other security forces on the basis of sexual orientation and gender expression.
- d. Ensure that transgender persons be able to update their identification papers without harassment from authorities so that these accurately represent the person carrying them and they can avoid persecution for impersonation.
- e. Implement the existing laws that forbid forced testing for drugs, sexually transmitted infections, and anal probing as a means of proving “deviance” and homosexuality.

IV. Comprehensive school-based sexuality education

12. The Ministry of Education and Higher Education and Ministry of Public Health approved a decree (decree 6610/11 of June 4, 2010) to introduce a school-based Reproductive Health Education and Gender curriculum, which is yet to be implemented in schools in Lebanon. While training on the approved and mandated curriculum, developed by UNFPA and the Educational Center for Research and Development (ECRD) (27), has already taken place with hundreds of public school teachers, health educators, and counselors (28) across the country, the curriculum is yet to be implemented in classrooms. Although the curriculum falls short of discussing sexuality outside of the scope of reproduction, it could improve the knowledge and attitude of students towards their reproductive health and understanding of gender, as it contains specific activities aimed at providing intermediate and secondary students with accurate reproductive health information to assist them in developing healthy attitudes and skills with regard to sexuality and reproduction through school extra-curricular activities (29).

Recommendations - The Lebanese state should:

- a. Implement the Reproductive Health Education and Gender curriculum in public and private school classrooms and develop and implement standards for monitoring and evaluating the implementation of the curriculum.
- b. Further train school teachers, health educators, and counsellors so that they understand the importance of students receiving comprehensive sexuality education.

- c. Develop the curriculum further to include sexual health and a broader understanding of sexual and gender diversity.

V. Reproductive Health and Rights

a) Access to information and services on contraception, including emergency contraception

13. Population Reference Bureau (2011) (30) documented that the latest data (prior to 2006) from Lebanon showed that 58% of married women between the ages of 15-49 use some kind of contraceptive method, including 34% using modern methods. According to the PRB and UNFPA, the unmet need for family planning for married women in Lebanon in 2004 was 19%. This is not mentioning unmarried women and those engaging in pre-marital sex (31).

14. In Lebanon, most forms of contraception are available, with the most commonly used being (male) condoms, contraceptive pills and IUDs. Contraceptives pills are easily accessible in pharmacies or offered at dispensaries for free or at a subsidized fee. However, pervasive social norms and stereotypes around sexuality, especially around the sexuality of adolescents and/ or sex outside of marriage, often prevents women, especially unmarried women, from seeking contraceptive information, products and services, putting them at a greater risk of unwanted pregnancies and contracting STIs.

15. While emergency contraception (EC) is available over the counter, lack of access to contraceptive information and prevailing stereotypes around how unmarried women and adolescent girls should not be having sex lead to low usage of other contraceptives and misuse of EC as a regular form of contraception (32). There also have been incidences where Levonorm (Levonorgestrel) was out-of-stock (33). Currently, however, Levonorm has been completely taken off the market and replaced with Ulipristal Acetate (EllaOne) which has double the cost. Young women already had difficulty purchasing EC because of the stigma by pharmacists (32), now an added obstacle is that it has also become too expensive and it is the only available EC on the market. These barriers constitute a form of violence against women as stated by the Special Rapporteur on Violence against Women, who has classified several reproductive rights violations as form of VAW, including unwanted pregnancies that result from denial of access to contraception (34).

16. Barriers to access to contraceptive information and services are even greater for marginalized groups such as migrant domestic workers (35) and women refugees. Their access is limited geographically, as refugees usually live in informal settlements far from cities or are being sheltered among the poorest communities in Lebanon and migrant domestic workers

usually reside in the homes of their employers and are rarely permitted to leave their workplace even for a day off. Moreover, migrant domestic workers and refugees do not benefit from the Lebanese social security regime, and have to subscribe to a private health insurance scheme, something they cannot obtain given their lack of resources, making visits to get prescriptions prohibitively expensive (36). According to UNFPA data, among Syrian refugees in Lebanon, only 37% of non-pregnant married women were using contraception (37).

Recommendations - The Lebanese state should:

- a. Ensure that contraceptive information and services are adequate, available, accessible, and of good quality for all women and adolescents in Lebanon, including for migrant domestic workers and women refugees, free from coercion, discrimination and violence.
- b. Reinstate affordable and adequate EC in pharmacies so that women and girls may access it and avoid unwanted pregnancies.

b) Access to abortion and post-abortion services

17. Under the Lebanese law that was drafted in 1943, based on the French penal code at the time (38), articles 539-546 state that abortion is illegal under all circumstances. It was not until October 1969 that Presidential Decree No.13187 allowed abortion to be performed but only to preserve the pregnant woman's life (39).

18. Abortion is permitted only if it is required to save the life of the pregnant woman and requires the consent of two physicians other than the attending physician (40). Under Article 542 of the penal code, a person who performs an abortion (outside of the exception of preserving the woman's life) is subjected to one to three years of imprisonment (41), and under Article 541 of the penal code the woman herself is subject to six months to three years imprisonment (41).

19. Article 539 of the penal code also prohibits the dissemination of information on abortion or methods used to facilitate it, and the selling or acquisition of objects that are designed to perform it (41).

20. Barriers to access to safe abortion information and services endanger women's health and lives by pushing them to resort to clandestine abortions in unsafe and unsanitary facilities. This holds for all women in Lebanon, particularly for marginalized groups such as women domestic workers (35), who have little to no rights under the Kefala system (the sponsorship system) (42), and for displaced and refugee women, who face sexual violence in total impunity (36,43).

21. Regarding medical abortions, in February 2013 stricter restrictions have been placed on the distribution of Misoprostol in pharmacies (44), whereby it used to be available over the counter, then over the last few years required a prescription to obtain; now it requires a prescription to obtain and is subject to a protocol as strict as for the sale of narcotics. Medical abortion via Misoprostol has been more restricted and many refugee women report physicians in clinics and pharmacists selling 2 or 4 pills for 20 – 70 USD, knowing that the entire 28-pill packet of Cytotec (Misoprostol) costs around 12 USD. Women are being prescribed Misoprostol in incorrect doses and routes and are told that this method will most likely fail, and indeed it causes no-or-incomplete abortions and usually requires return for a lucrative surgical abortion (45). Regarding surgical abortions, due to the risk taken by healthcare providers who perform these procedures under restrictive laws, physicians usually charge clients not only for their work but also the risk of legal prosecution. This can be extremely expensive, resulting in greater impacts on poor and marginalized women (46). With no regulation on the prices of abortion, the client is usually charged between \$300 -\$1200 depending on the geographical location and the space in which the procedure is performed: home, clinic or hospital (47).

22. With over a million registered Syrian refugees in its territory, more than half of whom are women, and with ever growing refuge and displacement of people from the Syrian conflict into Lebanon (48), the Lebanese government has the duty to ensure that the sexual and reproductive rights of women refugees are respected, protected and fulfilled. The CEDAW Committee (49) and the Committee against Torture (50) recognize that in conflict-settings, women and girls are more likely to face unplanned pregnancies, and call on states to ensure that sexual and reproductive health-care in conflict-affected settings includes access to safe abortion services and post-abortion care. The denial of abortion services to these women can rise to the level of torture or cruel, inhumane and degrading treatment (51).

Recommendations - The Lebanese state should:

- a. Remove all legal barriers pertaining to access to safe abortion and in particular decriminalize seeking and providing abortion;
- b. Take positive measures to ensure that all women and adolescents have access to safe abortion and post-abortion care free of discrimination, violence and coercion, such as ensuring access to essential medicines and services that make abortion services safer and easier to access, especially in rural settings, and ensuring adequate training, support, and supplies to ensure that abortion-related complications can be treated, irrespective of the legality of abortion.
- c. Remove restrictions on the dissemination of scientifically and medically accurate information pertaining to safe abortion services;
- d. Adopt laws and policies enabling migrant women, refugees and displaced women to have access to safe abortion and post-abortion care.

c) Maternal mortality and morbidity

23. Lebanon has made progress in achieving Millennium Development Goal 5, namely improving maternal health and particularly the target of reducing the maternal mortality ratio (52). It has made a conscious effort to disseminate and implement the OHCHR technical guidance on the application of a human rights-based approach to the implementation of policies and programmes to reduce preventable maternal mortality and morbidity. Lebanon also contributed a submission to the report on the application of the technical guidance (53).

24. The above mentioned efforts have focused on Lebanese women and have not included refugee and migrant women, who access obstructed and/or poor quality antenatal, delivery, and postnatal services (54). Issues of cost, access to information in a language they understand, acceptability of practitioners and facilities, geographic accessibility, and legal hindrances to registering the birth of their children are the main barriers they have to face, rendering them more vulnerable to pregnancy and delivery related complications and thus to maternal mortality and morbidity.

Recommendations - The Lebanese state should:

- a. Take positive measures to ensure refugee and migrant women receive appropriate, accessible, acceptable and good quality reproductive health information and services, free from violence, coercion and discrimination, such as:
 - Involving refugee and migrant women in the design and implementation of health policies aimed at improving maternal health;
 - Distributing government guidelines addressing reproductive health services to all facilities, to refugee and migrant women, and to the community at large and encourage their use;
 - Institutionalize continuous training programs for reproductive health-care providers in both public and private facilities.
- b. Remove all barriers to registering childbirth in refugee communities and take positive measures such as disseminating information on legal procedures to refugees.

VI. Access to HIV testing and treatment

25. Government interventions need to address HIV/AIDS prevalence, which constitutes a growing risk to women as the number of infected women is growing, and prevention and detection measures are still largely unused (55). The number of total reported cases is estimated at 1,700, with 109 newly reported cases in 2014 and a total number of unreported cases estimated at 3,750 (56). While 47% of all transmissions are “non-specified”, 51% of HIV transmissions are due to sexual relations (55), and recently it appears that 93% of the newly

acquired cases of 2014 were among men (57), and that vertical transmission (mother to child) is almost zero. The largest age group with the infection is the 15- to 29-year-olds with 26.1%, followed by those aged 30 to 49 at 25.7%. Of the total infections by sexual transmission 27.5% is through heterosexual behavior, 22% homosexual, 0.9% bisexual and 49.6% non-specified (58).

26. The Head of the National Aids Program (NAP) believes that the virus is mostly restricted to men who have sex with men, and that the undisclosed sexual activity is probably due to stigma against homosexuality (56). There is an assumption within the NAP that most women in Lebanon are not living with the virus, insinuating that the rate of HIV transmission is controlled. Meanwhile, a large percentage of those who are living with HIV do not disclose whether their sexual behavior is same-sex or otherwise, and most HIV testing campaigns are tailored to test men whether heterosexual or not. Therefore it is uncertain whether women are at lower risk or whether men are tested for HIV more. Institutional barriers mainly lie within the conceptual and behavioral stereotypes around HIV and its transmission, and the risk to women needs to be emphasized (55).

27. The main challenges facing effective HIV interventions are the political and internal insecurity of the country, shortage of funding, resistance from religious leaders and decision makers, lack of skilled human resources (59) and discrimination against and stigmatization of those infected with HIV, reinforced by a legal system that penalizes drug use (preventing injecting drug users from seeking voluntary testing and counseling and hindering their access to harm reduction facilities) (60) and homosexuality (61). Another challenge with regards to effective HIV interventions for women is the prevalent belief that HIV is restricted to men who have sex with men.

Recommendations - The Lebanese state should:

- a. Provide comprehensive reproductive health interventions and HIV/AIDS prevention, detection and treatment services to women.
- b. Reform laws and legal support services, with a focus on anti- discrimination, protection of public health, and improvement of the status of women, children and marginalised groups, in accordance with the OHCHR and UNAIDS International Guidelines on HIV-AIDS and Human Rights (62).

VII. Trafficking and Sex Work

28. In August 2011, the Lebanese Parliament passed an anti-trafficking law (63) to address the crime of trafficking in persons. However, civil society organizations presented several problems with the law, specifically its focus on punishment rather than prevention and protection, a

disregard for the vulnerabilities of migrant women and refugees during the prosecution process, and no specific provisions in the law addressing the special protection needs of trafficked children (64).

29. Women who enter the country as “artists” are usually trafficked and forced into the sex industry operating within certain “super nightclubs”. Many of these women are not permitted to leave their lodgings without being accompanied, have their passports confiscated, and are forced to get tested for HIV, STIs, and pregnancy (65, 66).

30. Sex work in Lebanon is technically legal as long as it is licensed and occurs in registered brothels. However, since the end of the Lebanese civil war in 1990, no brothel has been granted registration. As such, sex work has moved to the customer's home, a public location, online, or over the phone (16). All these forms of sex work are considered by law to be “secret prostitution” and are punishable by imprisonment and/or fine. The only exception is a legal loophole where a non-national (usually a woman) can enter the country with an “artist” visa, in which case her activity is not considered as “secret prostitution” and therefore is not punishable (16).

31. Articles 523, 524, 526, and 528 criminalize the solicitation of others for sex. Sex workers are targeted through these articles for selling sex, while article 527 criminalizes facilitators and the employers of sex workers. Persons charged with any of these articles are prone to deportation under article 530 (16), while citizens would be punishable by imprisonment and/or a fine.

32. The criminalization of sex work and efforts to abolish it, as well as the violence and attitudes that encompass such attempts, lead to an abusive climate for sex workers that prevents them from exercising their rights and accessing justice. Achieving equality and realizing the social and economic rights of all sex workers and specifically of trans persons, women, or refugees (67) working in the sex industry must include addressing the stigma against sex workers, providing them legal protection when violations of their rights occur, and decriminalizing activities associated with sex work so that their work conditions can improve. Moreover, it must be recognized that trafficking for the purpose of sexual exploitation perilously undermines the safety, health, and freedoms of those trafficked and these violations of basic human rights needs to be addressed (68).

Recommendations - The Lebanese state should:

- a. Cease all forced, coerced and involuntary medical testing on sex workers, particularly HIV testing.

- b. Amend all laws in the Penal Code that stigmatize sex workers, such as articles 523, 524, 526, and 528 of the penal code.

VIII. Syrian Women Refugees

33. According to UNHCR, there are currently 70,189 Syrian women refugees heading households in Lebanon (69). Syrian women refugees face high risks of rape, sexual violence and harassment in Lebanon, often perpetrated by men in positions of power such as employers, landlords and even faith-based aid distributors. Syrian women in Lebanon interviewed by Human Rights Watch indicated that they did not report these incidents to local authorities due to lack of confidence that authorities would take action and fear of reprisals by the abusers or arrest for not having a valid residency permit (70). Poverty, lack of access to resources including food and adequate housing and rampant discrimination, render Syrian women and girl refugees more vulnerable to sexual exploitation and child, early and forced marriages (CEFM). Gender stereotypes also contribute to the increase of CEFM among the Syrian refugee community: girls are perceived as a burden within families struggling to survive and marrying them can bring a dowry that would help the family financially, or families believe that a husband would protect young women and girls. These situations of child, early and forced marriage often translate into severe abuse towards girls, with dire consequences on their sexual and reproductive and mental health (71). ‘Survival sex’ is another form of violence identified by adult women and adolescent girls since arriving in Lebanon. Lack of and failure of social services pushes Syrian refugee women towards ‘survival’ sex when women and girls exchange sexual favors for food or other goods, or money to help pay the rent (72). Women refugees face high levels of intimate partner violence; their male partners’ frustration and lack of access to resources contributes to this situation (36).

Recommendations - The Lebanese state should:

- a. Sign and ratify the 1951 Refugee Convention and its protocol.
- b. Work in coordination with UN agencies and civil society organisations to ensure Syrian women refugees have housing, food and healthcare, including sexual and reproductive healthcare and information, which is acceptable, accessible, available and of good quality.
- c. Establish mechanisms enabling women refugees to submit complaints on violations perpetrated against them without fear of violence and reprisals and coordinate with UN workers in responding to cases involving refugees, especially on cases of rape, sexual violence and harassment.

References

1. TheAproject is an initiative seeking agency, alternatives, and autonomy in sexuality, sexual health, and gender in Lebanon. The project aims to address sexuality by integrating an affirmative and sex-positive framework with a dedication to women and trans* individuals, and marginalized communities receiving little-to-no attention and resources such as refugees, displaced citizens, and migrants. Producing sex-positive multimedia and documentation, as well as contributing to the body of research on sexuality in Lebanon are cornerstones of theAproject.
2. The Center for Reproductive Rights (CRR) is a global reproductive rights organization that uses constitutional and international law to secure women's right to an abortion in over 45 countries. The Center for Reproductive Rights uses the law to advance reproductive freedom as a fundamental human right that all governments are legally obligated to protect, respect, and fulfill.
3. The Sexual Rights Initiative is a coalition including Action Canada for Sexual Health and Rights, Akahatá Equipo de Trabajo en Sexualidades y Generos (Latin America), Coalition of African Lesbians, Creating Resources for Empowerment in Action (India), The Egyptian Initiative for Personal Rights, The Federation for Women and Family Planning (Poland), and others.
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15. Code Pénal Promulgué par le décret-loi N°340/NI en date du 1er Mars 1943, modifié par le décret loi N°112 16/09/1983 et par le décret loi 119/83, art. 469: "A person who presents to a public figure with a false identity in order to bring a certain benefit to himself or to another or in an intention to infringe on someone's rights, is punished by imprisonment from two months to two years in addition to possible felony offences in case he conspire with a public employee."
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