

Lebanon

Gender Discrimination in Nationality and Personal Status Rights in law and practice

- 1- Ruwad alHoukoug FR is a Lebanese NGO established in 2014 by a group of human rights defenders active since 1999 in the defense of marginalized groups in Lebanon, particularly stateless persons, refugees, and migrants. Ruwad alHoukoug FR's mission is to promote legal protection of vulnerable population, and to advocate for law reforms and rule of law., . Ruwad alHoukoug FR is a member of several international networks specialized in combating statelessness and protecting refugees.
- 1- The Global Campaign for Equal Nationality Rights mobilizes international action for the removal of gender-discriminatory provisions from all nationality laws, through its coalition of over twenty national, regional and international organizations and activists, including steering committee members Equality Now, Equal Rights Trust, the Institute on Statelessness and Inclusion, Women's Learning Partnership, and Women's Refugee Commission.
- 2- This submission focuses on discrimination on the basis of gender in the Nationality Code of Lebanon, which violates women's right to confer nationality on children and spouses on an equal basis with men; gender discrimination in personal status laws and the resulting human rights violations; and discrimination between women themselves based on nationality and legal status.
- 3- There is no official data as to the exact number of Lebanese women married to foreigners or stateless persons. Similarly, there is no official data on the

number of stateless women married to Lebanese men.

- 4- The number of stateless persons in Lebanon is estimated to be in the thousands. According to Ruwad alHoukuk FR's database of approximately 3200 stateless persons, 12% of male stateless persons are married to Lebanese women; and 22% of Lebanese men are married to stateless women. More than 56% of stateless children are born to Lebanese mothers, and 34% are born to stateless mothers, of which 64% are born to Lebanese fathers.

The Universal Periodic Review of Lebanon under the First and Second Cycles

- 5- In the two UPR Review Cycles of 2010 and 2015, Lebanon received twenty-eights recommendations related to reforming its laws to remove gender discrimination in nationality and personal status matters. Lebanon noted these recommendations.
- 6- In the first cycle, four of the recommendations were related to women's right to confer nationality on children and spouses (Netherlands, United Kingdom, Norway and Canada). Two were related to personal status laws and ensuring women's rights with regard to marriage dissolution, child custody and inheritance (Brazil and Netherlands), and two to ensuring equality between men and women in general (Norway and Spain).
- 7- In the second cycle, fourteen countries recommended lifting the state's reservations to CEDAW (Portugal, Slovenia, Croatia, Paraguay, Namibia, Republic of Korea, Norway, Uruguay, Luxemburg, Latvia, Sweden, Denmark, France, and Germany). Five other countries recommended amending the current legislation to remove all discriminatory provisions against women in passing nationality and in family related issues such as marriages, divorces and inheritance (Germany, Czechia, Canada, Kenya, ad Netherlands). Lebanon noted these recommendations and a general recommendation (Serbia) to enforce strict sanctions against all kinds of discrimination and abuse of women's rights.

Legislative and Institutional Developments

Legislative Developments

- 8- Since 2010, seven law proposals were presented by Parliamentarians, Ministers as well as by the National Commission for Lebanese Women. However, none were debated in the Parliament. In 2013, the Cabinet assigned a ministerial committee to discuss a proposal to lift gender discrimination in nationality laws. This committee issued a negative recommendation, announced on Mother's day, citing that demographic and sectarian balance "prevail on the Constitutional principle of Equality," according to the Committee.
- 9- Since that time there has been no official statement by the Parliament or Cabinet in this respect, and all proposals to address gender discrimination in the nationality law remain inactive. Though the previous Prime Minister repeatedly declared his support for women's right to pass nationality on to their children in 2019, including on International Women Day, Mothers' Day, and at the launch of the Ministry on Women's Affairs yearly plan, these words remained empty promises.
- 10- One of the proposals was submitted by the Minister of Foreign Affairs in 2018. The proposal excluded children of Lebanese women married to men from "the neighboring countries", thereby discriminating against women on the basis of the nationality of their husbands. Many politicians and human rights activists criticized this proposal for its discriminatory approach.
- 11- One of the most recent proposals was made by the National Committee for Women in Lebanon. The 2019 proposal provides for equality between women and men in conferring nationality to children born after its enactment as well as children who are minors at that date. As for adult children at the time of the law's enactment, they would obtain a special residence permit and have the right to apply for naturalization under simplified conditions if they live 5 consecutive years in Lebanon after obtaining residency. Many politicians and human rights activists criticized this proposal as discriminating between the minor and adult children of the same mother, in addition to those born before the law's enactment.

Institutional Developments

- 12- The National Commission for Lebanese Women issued its ten-year strategy in 2011.¹ The strategy does not include ensuring gender equality in nationality rights and family related matters among its objectives.
- 13- In 2017, Lebanon established a Ministry for Women's Affairs. The Ministry's objectives include, among others, ensuring equality between women and men. The Ministry made a number of law proposals, but none were related to equality in nationality issues.

Lebanon's International Obligations

- 14- Lebanon is a State Party to international treaties that enshrine the principle of non-discrimination, including gender-equal nationality and family rights. The right to a nationality and non-discrimination on the basis of sex is reinforced by a variety of these instruments, including the Convention on the Elimination of all forms of Discrimination Against Women (Article 2, 9, 16) and the Convention on the Rights of the Child (CRC, Article 2, 7).
- 15- However, Lebanon made a reservation on Articles 9 and 16 of CEDAW. This undermines the spirit, substance, and effectiveness of the Convention, which is based on the principle of non-discrimination on the basis of gender, with a specific emphasis on guaranteeing equality in personal status and nationality matters. Lebanon's reservations therefore violates the object and purpose of the Convention. The CEDAW Committee has stated that reservations to article 16 of the Convention, irrespective of the reasons cited by the States Party, are "incompatible with the Convention and therefore impermissible."² The Nationality Code further contravenes the general obligation to eliminate all forms of discrimination against women which arises under Article 2 of CEDAW.
- 16- International conventions ratified by Lebanon have constitutional power. Further, according to Article 2 of Civil procedures, the conventions have supremacy over the national laws in force.

Principle of Equality

¹ <https://nclw.gov.lb/wp-content/uploads/2017/02/2-National-strategy-for-women-in-Lebanon-2011-2021-in-3-languages.pdf>

² <https://www.unicef.org/gender/files/Lebanon-Gender-Eqaulity-Profile-2011.pdf>

17- The Lebanese Constitution preamble states that all citizens are equal before the law without any discrimination. Further, Article 7 provides for equality between all Lebanese in enjoying civil and political rights. Yet, the national laws in force are not in compliance with the constitutional guarantee of non-discrimination.

18- The Constitution and the national laws do not provide a legal framework for stateless persons, nor do they establish a statelessness determination procedure. Stateless persons have no legal status, no official records, and no automatic access to a wide-range of rights including the right to legal existence, to civil registration, and other civil and economic rights.

Lebanon's National Legal Framework Related to National and Personal Status

Dual Legislative System

19- Lebanon adopts a dual legislative system, whereby religious laws of the “historical” religious denominations of the two main religious groups, Christians and Muslims, regulate personal status matters including marriage, divorce, kinship, and guardianship. There are nineteen religious groups belonging to Christianity and Islam in Lebanon, and thirteen personal status laws for these groups.³ Civil registration is governed by the civil laws, namely the nationality and civil documentation laws.

Discrimination in Nationality Rights

20- The Lebanese nationality law discriminates between men and women in the right to confer nationality. Married Lebanese women cannot confer

³ Family Rights Law (Ottoman Law), dated 25 October 1917; Administrative Transactions related to Family Rights Law, dated 31 December 1917; Personal Status Law for Druze, dated 24 February 1948 Personal Status and Procedures Law for Catholic Confessions, dated 22 February 1949; Marriages Law for Catholic Oriental Confessions Endorsed by Pope Pie IIX, dated 22 February 1949; Marriage Law for Lebanese Latin, dated 22 February 1949; Personal Status Law for Armenian Orthodox, dated 22 February 1949; Personal Status Law for Syriac Orthodox, dated 22 February 1949; Personal Status Law for Assyrian Orthodox, dated 22 February 1949; Religious Provisions Law for Israelites in Lebanon, dated 22 February 1949; Personal Status and Procedures Law for Greek Orthodox Patriarchate of Antioch and the East, dated 16 October 2003; Personal Status Law for Evangelical in Syria and Lebanon, dated 1 April 2005; Personal Status and Procedures for Coptic Orthodox in Lebanon, dated 11 September 2010, available at <http://legallaw.ul.edu.lb/LegislationSearch.aspx>

nationality on their children. Article 1 of the nationality law (Decision 15 of 19 January 1925) reserves the right to confer nationality for the male paternal jus sanguini exclusively, except in the rare circumstances cited below.

- 21- The only exception that permits Lebanese women to confer their nationality on children is when a child is born out of wedlock. Article 2 of the nationality law states that a child born out of wedlock may acquire the Lebanese nationality of his Lebanese parent (mother or father) if one of the parents recognizes the filiation when the child is minor. However, even this provision is discriminatory against women. The law states if both the father and the mother recognize the filiation of the child at the same time, the child would acquire the nationality of the father if the father is Lebanese. The law is silent in the case where the father is not Lebanese, and it is not clear if the patriarchal lineage will also apply in such circumstances.
- 22- The law further discriminates between naturalized men and naturalized women. While minor children of a naturalized man are considered Lebanese automatically, per Art. 4 para 2 of the nationality law, those born to a naturalized mother are granted Lebanese nationality only if the children's father is deceased. This provision also discriminates between Lebanese women themselves, since the right to confer nationality on children is denied to Lebanese women who acquired the nationality at birth.
- 23- Per Article 4 para 1 of the nationality law, adult children and wives of a naturalized man may apply for naturalization with no residence condition, while the husband and adult children of a naturalized woman have no similar right.
- 24- Foreign women married to Lebanese men may acquire the Lebanese nationality one year after the registration of the marriage, upon submission of an application to the administration by operation of the law, per Article 5 of the nationality law. Foreign men married to Lebanese women may apply for naturalization after 1 year of continuous residence in the country, according to Article 3 of the same law. However, the granting of nationality to spouses of Lebanese women remains at the discretion of the State and, in

practice, the State does not facilitate the naturalization of foreign men on the basis of their marriage to Lebanese women. Though this may occur in rare circumstances, no cases have been documented whereby the spouse of a Lebanese woman was able to acquire nationality in this manner.

25- The acquisition of nationality by marriage requires an investigation and recommendation by the General Security. While the law is clear about the period required to acquire the nationality, the General Security has established rules discriminating between women based on their nationality status, which are applied in practice. For example, Syrian wives, must have three continuous years of marriage, or 1 year only if the couple has a child; Palestinian wives require five years of marriage.

26- In 2019, the Personal Status Directorate issued a circular aiming at limiting practical discrimination at different Registrars offices between foreign women applying for Lebanese nationality by marriage to a Lebanese man. It standardized the type of documentation needed, the application form, and submission procedures, as well the approval process by the Administration.

27- However, the law is silent as to the acquisition of nationality by marriage of stateless women married to Lebanese men. The administration's interpretation of the legal provisions regulating the registration of the marriage discriminates between stateless and foreign women married to Lebanese men. While foreign women acquire Lebanese nationality by an administrative procedure, stateless women have to file a lawsuit since the Administration refers these cases to the Judiciary, and requires a foreign passport to apply for nationality, thus excluding stateless women.

Discrimination in Civil Registration Rights

28- The civil documentation law also discriminates between men and women as to the declaration or registration of marriage and divorce. Article 22, 27 & 28 of the law state that women may register the marriage or divorce *only* if the husband declines to do so. Many women are unaware of this right. Therefore, when men decline to register their marriage, the marriage often remains unregistered. In such circumstances the couple's children are frequently unregistered and both spouses remain listed as

single in their personal status records. As for declaration of divorce, because women are only permitted to register the divorce if the husband declines, and many women are unaware that they may do so in such circumstances, some women continue to be listed as married in their personal status records, despite having divorced their spouse before the religious authorities. If such women seek to remarry, the marriage cannot be registered with the civil authorities until the previous divorce has been registered. If this is not done, children from the second marriage will become stateless.

- 29- The civil documentation law does not state the procedures required for the registration of marriages of Lebanese men to foreign women or stateless women, who by the state's definition are also "foreigners". For women who have a foreign nationality, the Administration registers these marriages by using interim special records for the foreign wives and notes the marriage on the Lebanese husband's civil record. This is based on an interpretation of Art. 29 of the civil documentation law, which states that the civil registrar from the region holding the husband's civil records must inform the [Lebanese] civil registrar from the region holding the wife's civil record. As foreign women do not have Lebanese civil records, their marriages are registered on their husbands' civil record and, once they acquire Lebanese nationality, the wives themselves are registered in their husband's records.
- 30- Stateless women married to Lebanese men are not treated equally to foreign women. These marriages are not registered by the Administration and such cases are referred to courts to obtain a judicial decision to register the marriage. As such the Administration discriminates between foreign and stateless wives. Many Lebanese men do not go to courts to register their marriages, leading to the continuous statelessness of these women and generating new stateless children.
- 31- The civil documentation law adopts a patriarchal approach regarding the birth registration of children. In the vast majority of circumstances, the child can only be registered in the father's registration. Children are only registered on their mothers' civil records if the father is "non-existent", per

Art. 18 & 19. The same applies for marriage registration, which is registered on the husband's records, per Articles 25 & 29 of the law.

32- The Civil Documentation Law of 1951 provides an equal right for fathers and mothers to declare the birth of their children. However, the law discriminates between them when it comes to late birth registration of children. Article 12 of the civil documentation law stipulates that a lawsuit be submitted by the concerned person. If the concerned person is minor and has no legal capacity, the guardian should submit the lawsuit. According to various religious laws, automatic guardianship is given to the father. The mother has guardianship only if the father is deceased or disappeared *and* if the male paternal grandfather is not available.

33- In 1993, the Government issued circular No. 51/S dated 18 January "General Security Approval of Foreign Women to Lebanese", which discriminates between foreign women married to Muslim and Druze men and those married to Christian men. The circular also distinguishes between foreign women who are legally residing in the country and foreign women who are in an irregular situation. Prior approval by a religious court must take place before concluding the marriage. This prior approval is obtained only if the foreign woman legally resides in Lebanon. Many Muslim and Druze men marry foreign women who are irregular in the country without obtaining prior approval from a religious clerk and without confirming the marriage with the religious courts. As such, Lebanese men in this circumstance cannot register their marriages until their wives regularize their status. As many do not take this step, their marriages remain unregistered and their children become stateless.

Discrimination in Personal Status

34- The religious personal status laws are patriarchal and discriminatory against women. Marriage, kinship, children's religion, minor guardianship, and divorce are dictated by the man's status. Child custody is also a controversial issue in almost all religious groups, which discriminate against women by giving men automatic custody of their children at an early age.

Recommendations

On the basis of the above information, the co-submitting organizations respectfully request Member States to make the following recommendations to Lebanon:

- 1- Undertake a comprehensive review of its legal framework to amend the laws and regulations that discriminate against women, by undertaking a national consultation with civil society, legal experts, and all stakeholders.
- 2- Amend the Nationality Law to ensure gender equality with regard to the acquisition, change and retention of nationality and to enable Lebanese women to transmit their nationality to their foreign spouses and their children on an equal basis with men
- 3- Enact a civil personal status law that regulates marriage, kinship, divorce, guardianship, inheritance and all personal status matters and that is equally applied to all citizens and persons residing in the country, without discrimination including on the basis of sex.
- 4- Take serious measures, including establishment of a statelessness determination procedure, and related legislation, and policies, to prevent and reduce statelessness, including amongst the spouses and children of Lebanese women, pending legal reform to uphold women's equal rights to confer nationality.
- 5- Ensure the registration of all persons' vital events, regardless of their or their parents' legal status, and uphold women's equal and independent right to register and access civil documents for themselves and their children, so that all marriages and children are registered regardless of whether the mother is an irregular migrant or stateless.
- 6- Conduct a nationwide awareness raising campaign to inform women of their existing nationality and personal status rights and to empower them to access these rights