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Human Rights Watch Submission to the CEDAW Committee of Lebanon's Periodic Report, 62nd session

October 2015

We write in advance of the 62nd Session of the Committee on the Elimination of Discrimination against Women (CEDAW committee) and its review of Lebanon's compliance with the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). This submission addresses articles 1, 2, 3, 5, 7, 8, 9, 10, 11, 12, 14, 15 and 16 of the Convention.

This submission is based on information contained in two Human Rights Watch reports, "Without Protection: How the Lebanese Justice System Fails Migrant Domestic Workers,"[1] published in September 2010; and "Unequal and Unprotected: Women's Rights under Lebanon's Religious Personal Status Laws,"[2] published in January 2015, as well as press materials on Syrian women refugees in Lebanon, and other Human Rights Watch publications.

1. Discrimination against women in its multiple Personal Status Laws: (CEDAW articles 1, 2, 15 and 16)

The CEDAW committee in its last concluding observations called on Lebanon to "urgently adopt a unified personal status code which is in line with the Convention and would be applicable to all women in Lebanon, irrespective of their religion" but this has not been implemented. It also asked for the government to provide "detailed information on the various personal status codes affecting women."

In this regard Human Rights Watch, through its own review of 447 court cases and 72 interviews, found that Lebanon's multiple religion-based personal status laws and the religious courts that apply them discriminate against women across the religious spectrum. Lebanon has 15 separate personal status laws for its recognized religions but no civil code covering issues such as divorce, property rights or care of children. This is despite a 1936 decree which, while it established Lebanon's personal status order recognizing the ability of religious groups to apply their own laws to their communities, also gave every citizen the right to choose his or her religious affiliation, or to choose not to affiliate with any religion and theoretically be subject to a civil code on personal status matters.

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[1] Human Rights Watch, "Without Protection: How the Lebanese Justice System Fails Migrant Domestic Workers," September 16, 2010, http://www.hrw.org/reports/2010/09/16/without-protection-0

[2] Human Rights Watch, "Unequal and Unprotected: Women's Rights under Lebanese Personal Status Laws," January 19, 2015, http://www.hrw.org/news/2015/01/19/lebanon-laws-discriminate-against-women

Discrimination against women results not only from laws, but also religious courts procedures. All of the women whom Human Rights Watch interviewed said numerous procedural obstacles, including high fees, protracted lawsuits, and lack of legal and material assistance during legal proceedings, kept them from accessing religious courts and enforcing even their limited rights. Further, while the courts and religious laws should comply with the provisions of the Lebanese Constitution, the Court of Cassation, which is the highest civil court in the Lebanese judicial system, has very limited oversight over religious court proceedings and decisions. Christian courts are administratively and financially independent and Muslim courts, although historically affiliated and funded by the state, are operationally independent of state institutions.

Religious institutions also provide little sustainable and appropriate legal or social support for women involved in court proceedings on family matters, a need that local NGOs have been unable to meet due to staff shortages and a dearth of resources. In addition, women are often torn between numerous judicial authorities—criminal, civil, and religious— when attempting to resolve personal status-related disputes because they must often petition more than one of these courts to claim their rights.

(a) Divorce

The extent of discrimination in divorce varies across religious confessions. For example, Shia, Sunni and Druze women enjoy a greater ability to end their marriages before their religious courts than do Christian women, who are subject to laws that are generally more restrictive in their approach to divorce for both spouses. Women appearing before Sunni and Druze courts can more easily end their marriages than Shia women who appear before Ja`fari Courts because they are able to initiate "severance" cases to end their marriage. Severance is the dissolution of the marriage by judicial order for reasons specifically enumerated by law, but which requires women to prove certain criteria, such as unpaid spousal maintenance, the husband's inability to have sexual relations because of impotence, contagious disease, or insanity. In general, the criteria for women to access divorce are more stringent than those for men.

Women subject to Sunni, Shia, and Druze personal status laws have only a conditional right to end their marriage, unlike men from these groups, who have an absolute right to unilaterally terminate a marriage at will. While legally spouses may agree to share the right to dissolve the marriage by giving the wife *`isma*, or irrevocable power to initiate divorce herself, in the marriage contract the practice is largely rejected in a society in which divorce is widely considered to be a male right. Only three out of the 150 divorce judgments before Ja`fari and Sunni courts that Human Rights Watch reviewed were issued based on the wife's exercise of the *`isma,* and none of the women interviewed had inserted this clause in their marriage contracts.

Without *`isma*, **Sunni** women can only initiate a divorce by filing for severance. Sunni courts often find women partly culpable in severance cases—even in cases with spousal violence or harm—reducing their pecuniary rights, and dissuading them from pursuing this path. Some women pre-emptively relinquish their pecuniary rights to get their husband to agree to initiate divorce. In some *khul'* or quittance cases, a wife must even pay money to her husband for a divorce.

Because **Shia** women have no access to severance they can only seek "sovereign" divorce via a Ja`fari religious authority who can divorce a Shia woman on behalf of her husband. This divorce needs to be recognized by the Ja'fari courts to take legal affect. It is a lengthy process that does not guarantee success. The absence of criteria establishing whether someone is a sovereign authority and thus whether a decision will be recognized deters many Shia women from pursuing such cases and also results in inconsistent judgments.

In the **Christian** confessions, particularly those who follow the Roman Catholic Church, it is very difficult for either spouse to terminate the marriage, even consensually. There are, however, some situations in which couples can end their marriages through annulment, dissolution, and divorce or apply for desertion, although provisions for this vary among Catholic, Orthodox, and Evangelical confessions.

While restrictions on terminating marriage extend equally to both Christian men and women, two aspects of the laws impact women differently and disproportionately. First, although spousal violence is grounds for desertion (a legal concept in Christian Personal Status laws that allows for separation of the spouses), spousal violence is in itself insufficient to obtain an immediate end to a marriage. Second, Christian men in Lebanon can unilaterally convert to Islam and remarry without divorcing their wives (Sunni and Shia men are legally allowed up to four wives). In these cases, the Christian marriage and its effects continue to be subject to the Christian authorities under which the marriage was celebrated, but the rights of the first wife and any children from the first marriage, particularly regarding inheritance, are diminished by the rights of the husband's second wife. There are no similar processes by which a Christian woman can bypass Christian personal status law after consummating her marriage. Many women relinquish their rights to maintenance or compensation in exchange for the husband's agreement to end the marriage through conversion to another Christian confession with more permissive laws if marriage is terminated.

(b) Economic consequences of Terminating Marriage

A prime obstacle for many women seeking a divorce is their vulnerable economic position during and after marriage. Human Rights Watch interviewed 27 women, of whom 23 said that the principal obstacle they faced in trying to get divorced was their vulnerable economic position.

Two main factors contribute to this situation: 1) the failure of personal status and civil laws to recognize a wife's economic and non-economic contributions to the marriage, including the value of her unpaid domestic labor, or the concept of marital property; and 2) cultural, religious, and traditional expectations and norms that undermine a woman's economic independence and contribute to her financial dependence on her husband.

According to a 2010 study of gender in the labor market by the Lebanese Central Administration of Statistics and the World Bank, the employment rate for married women is 34 percent, compared to 59 percent for unmarried women. Women only constitute 25 percent of the labor force and on average earn 75 percent of the salary earned by male counterparts.

Based on Human Rights Watch's review of court cases, judgments on spousal maintenance (a husband's obligation to meet his wife's needs for food, clothing, shelter, and other living expenses during marriage, and in some cases after dissolution) are often inadequate, biased, and arbitrary, with judges failing to use clear criteria in applying the standards provided for by the personal status laws when assessing adequate levels of maintenance.

They do not, for example, regularly rely on factors such as knowledge of the minimum wage, the value of the husband's assets, or his annual salary to determine spousal maintenance. In all of the cases that Human Rights Watch reviewed, the absence of clear criteria to assess spousal maintenance resulted in inadequate and arbitrary judgments. Judges may also refuse to award maintenance to a wife who is deemed to be "recalcitrant"—a concept that religious courts apply to women who have left the marital home and refuse to cohabit with their husbands. A wife can be found legally recalcitrant under all personal status laws in Lebanon. Under Shia, Sunni, Druze and

Catholic laws a recalcitrant wife is not entitled to spousal maintenance, and a finding of recalcitrance may hinder her custodial rights vis à vis her children.

When maintenance is awarded, lawyers told Human Rights Watch that it is frequently too low to cover basic living costs. They said that spousal maintenance rarely exceeds LBP600,000 a month (US$400). In 24 judgments issued by the Christian courts that Human Rights Watch reviewed, maintenance grants ranged from LBP150,000 ($100) to LBP600,000 ($400) a month. Similarly, the average value of maintenance awarded in 38 Sunni and Ja`fari suits reviewed by Human Rights Watch was LBP300,000 ($200) a month, although some women requested much more based on their husbands' ability to pay higher amounts. In cases where women before the Sunni courts did not request a specific sum but rather left it to the discretion of the court, the judge automatically granted them LBP200,000 ($133).

Judges justify awarding low spousal maintenance by citing the country's floundering economy and low minimum wage. But lawyers working on personal status cases before the courts said that judges are notably reluctant to award higher sums, even in cases in which the husband could afford to pay more. For example, in one case, a French national married to a wealthy Lebanese man was awarded just $300 a month, even though her lawyer said the husband owns several properties and has a net worth of millions of dollars. Unable to afford suitable accommodation, the lawyer said her client was living in a convent.

In addition, under all personal status codes, the man's obligation to support his spouse expires when a court finally dissolves the marriage. In all but **Christian** abandonment cases, spousal maintenance during separation is typically only granted temporarily when husbands fail to provide for their wives. Conditions for compensation after the termination of marriage under **Christian** personal status laws are limited and vary among the different confessions. Furthermore, the sum awarded under damages is usually not enough to allow women to support themselves until they can become financially independent.

Under **Sunni and Shia** personal status laws, women who are divorced by their husbands are, at most, only entitled to deferred *mahr* payments—the amount their marriage contract stipulated their husband would pay upon divorce or death. However, women and lawyers interviewed by Human Rights Watch said that often women entering into marriage disregard the material aspect of the contract. The deferred *mahr* amount is in many cases a symbolic figure, for instance one lira, or one gold coin and does not reflect what spouses believe would be adequate compensation in the case of divorce.

During severance cases a judge can reduce or eliminate these payments if he finds the wife at fault for the divorce, leaving some divorced women stripped of all financial resources.

Women's economic vulnerability may also contribute to their inability to protect themselves from domestic violence or to leave abusive marriages.

(c) An Unequal Equation: Maternal Custody and Paternal Guardianship

Lebanese religious laws continue to use the terms 'custody' and 'guardianship' concerning parents' legal relationship with children, despite having ratified the Convention on the Rights of the Child which does not use those terms.

Shia, Sunni, and Druze religious laws generally maintain that, in the event of divorce, the child's age, not their best interests, should determine with whom they reside. In a recent development, Sunni

judges can, at their discretion, consider the best interest of the child in determining custody. Similarly, Christian personal status laws also use a child's age as a principle factor in determining custody but also allow judges, at their discretion, to make custody determinations based on the best interest of the child.

Alongside the concept of "custody," religious courts recognize the concept of "guardianship," which entails the preservation and upbringing of children and their assets until they reach adulthood. Across religious laws with the exception of the Armenian-Orthodox personal status law, the right of guardianship both during marriage and after is granted to the father, who is recognized as the peremptory moral and financial guardian of his children.

Maternal custody rights, unlike paternal guardianship rights, are time-bound, conditional, and revocable, either due to a legal end to maternal custody, a judgment of maternal unfitness, or because a woman relinquishes these rights as part of a settlement.[3] One striking example that illustrates the difference between custody and guardianship is that in some confessions, following the death of the father, guardianship does not rest automatically with the mother, but might be granted to the male members of the father's family.

Based on the review of 101 child custody decisions in Christian and Ja`fari and Sunni courts, judges display a wide range of practices in applying the best interests of the child standard, in particular when deciding whether to deviate from maternal custody age cut-offs. These practices fail to adequately uphold the standard outlined by the Convention on the Rights of the Child (CRC), which instructs states parties that "the best interests of the child shall be a primary consideration" and "a child shall not be separated from his or her parents against their will" except when competent authorities, subject to judicial review, determine that doing so is in the their best interest. The CRC also does not use the term "custody," with its implications of parental ownership rights over children, but instead encourages a child-focused approach in family law, especially in determining where a child should live after divorce, and parental responsibilities. The CRC requires that children be given a right to express their views freely in all matters affecting them, especially in judicial and administrative proceedings, with their views given due weight in accordance with their age and maturity. Little, if any of these principles are reflected in Lebanese religious laws.

Women are often deterred from seeking divorce due to concerns about losing custody of their children. Human Rights Watch's review of court cases found that in many cases judges removed children from their mothers, but not their fathers, on grounds of fitness due to "questionable" social behaviors, because of the mother's supposed religious affiliation, or because she remarried. Many judges presume that women neglect their child's religious education if they are from a different religion, and several cases that Human Rights Watch reviewed cited the mother's neglect of the child's religious education as the basis for removing children from her care. In no cases that Human Rights Watch reviewed did men lose care of children cases on the grounds they had neglected their children's religious education.

Women may also be considered "unfit" if deemed unable to provide for the child's moral education. Yet there are no clear standards on this. Men are much less likely than women to have care of children removed from them for being unfit, and in the cases that Human Rights Watch reviewed,

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[3] Maternal custody for Catholic mothers ends when their children turn 2. Sunni and Evangelical women lose maternal custody when their children turn 12, Shia women when boys turn 2 and girls turn 7 (this can be extended if the child has reached the legal age of choice),and Druze, Syriac and Armenian Orthodox women when boys turn 7 and girls turn 9. For Coptic Orthodox the age is 11 for boys and 13 for girls, and for Greek Orthodox it's 14 for boys and 15 for girls.

care of the children was only removed from men in cases of severe alcoholism or drug addiction. In contrast, women were deemed unfit to retain custody in some cases for what would be considered normal social activity such as going out with friends.

Some women whom Human Rights Watch interviewed stayed in abusive marriages, gave up their monetary rights, or did not remarry in order to maintain maternal custody.

In some cases, women appeared to be penalized in child custody proceedings for initiating proceedings to end the marriage. In one case in 2007, the Maronite Court denied the mother both compensation and her maternal custody rights, although the children were still under the maternal custody age, noting, "The mother bears full culpability insofar as it is she who wishes to separate from her husband."

Maternal custody may also be removed from women due to "recalcitrance"—a concept that religious courts apply to women who have left the marital home and refuse to cohabit with their husbands. In such cases, a court may order a woman to resume living with her husband. If she refuses, the court can issue a judgment of recalcitrance. This can be used to revoke maternal custody of any children unless she can establish a legally sanctioned reason for leaving the marital home.

In 2002, Lebanon's parliament passed a child protection law, Law 422 on Protection of Children in Conflict with the Law or at Risk, applicable to all religions, which acted as a brake on religious personal status codes by refusing to give civil recognition and force of law to religious judgments that contravene child welfare and protection. Since then, religious courts have in some cases considered the best interest of the child when determining with which parent a child should live.

2. Violence against women (Articles 2, 3, and 16)

(a) Inadequate Protection from Domestic Violence

In April 2014, Parliament passed the Law on Protection of Women and Family Members from Domestic Violence, which established important protection measures and related policing and court reforms. However, the criminal law still fails to criminalize marital rape, and the domestic violence law falls short of UN guidelines on protection from domestic violence by continuing to define domestic violence narrowly.[4]

The law includes provisions on restraining orders that are also too narrow, and, contrary to the UN *Handbook for Legislation on Violence against Women*, exempts matters governed by personal status laws. In a positive development, at least two judges implementing the domestic violence law have interpreted the definition of the acts of violence banned by the law more broadly. However, religious courts do not have to adhere to civil court rulings. The Law on Protection of Women and Family Members from Domestic Violence does not include a provision that explicitly addresses how to resolve conflicts that may arise between civil court rulings over domestic violence and personal status court rulings.

Authorities have started implementing the domestic violence law. Judges have issued scores of temporary protection orders to women. However, some women continued to report that police were unwilling to investigate their complaints and the fund to assist victims of domestic violence has

[4] Human Rights Watch news release, "Lebanon: Domestic Violence Law Good, but Incomplete," April 3, 2014, http://www.hrw.org/news/2014/04/03/lebanon-domestic-violence-law-good-incomplete

not yet been set up. Women continue to face obstacles in pursuing criminal complaints of domestic violence mostly due to lengthy delays.

Women across all confessions must still contend with religious courts failing to respond to domestic violence. For **Catholics,** spousal violence is never sufficient grounds for obtaining an annulment. In one case that Human Rights Watch reviewed, Maria, a Catholic Maronite who wed in 1984, was regularly assaulted by her husband who also cheated on her during their first six years of marriage. He was sentenced to 20 years in prison for an unrelated murder. After his incarceration Maria sought an annulment from the Catholic Maronite court, which denied her case. Stating that her husband's incarceration, abuse, and adultery were insufficient grounds for annulment, the court instead ruled for temporary desertion with her husband at fault.

Under **Orthodox and Evangelical** laws, either spouse may petition to dissolve the marriage if he or she establishes that the other party attempted to kill him or her. Spouses may also obtain dissolution if the spouses do not cohabit for a certain period. Spousal abuse in and of itself is not cause for dissolution, but only temporary desertion (which may later be grounds for dissolution if the couple does not reconcile within three years under Orthodox confessions or two years in Evangelical confession).

Shia and Sunni men in Lebanon also have the right to discipline and have intercourse with their wives. These rights, and the obligation of women to cohabit with their husbands across all confessions, endanger women's safety. In addition, a lawyer told Human Rights Watch that some **Sunni** courts were taking into account protection orders that were issued to women. However, another lawyer said that the **Shia** religious authority which has to grant a "sovereign" divorce to women on behalf of their husbands as Shia women have no access to severance, were not taking protection orders into account in making their decisions.

(b) Response to sexual assault and harassment

Sexual assault and rape by authorities in detention centers and prisons have been reported by NGOs. A recent case could deter reporting of such claims.

On September 22, 2015, the Lebanese Army issued a statement that they had arrested two women for lying about being raped. An interview with one of the women was covered in a local media outlet on September 4, 2015. In it, the woman describes her arrest in 2013 and five days of detention. She said that she was tortured while in custody at the Ministry of Defense and later members of Military Intelligence raped her at their detention center in Rehaniyyeh. In the interview she also said that she called a doctor to get a medical report to prove she had been raped, but that the doctor refused upon hearing that she was raped by the Military Intelligence. She said that later a lawyer advised her not to speak about it.[5]

A day after her arrest, the army issued the statement stating that she had confessed to lying about being raped to gain "sympathy and get a job opportunity." It also said that they had referred her to "relevant judicial instances" without specifying the charges or court. The army did not specify where it was holding her, and her family and friends have not been able to reach her.

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[5] Human Rights Watch news release, "Lebanon: Woman Detained After Alleging Rape," September 26, 2015, https://www.hrw.org/news/2015/09/26/lebanon-woman-detained-after-alleging-rape

Defaming or criticizing the Lebanese army is a criminal offense in Lebanon, which can carry a prison sentence. Ambiguous definitions of defamation and slander open the door for silencing legitimate criticism of public officials and threaten freedom of expression.

These rape and torture allegations should be investigated by Lebanon's civilian judiciary, not by the accused security agency. Furthermore, arresting women for such allegations could effectively deter survivors of sexual violence from reporting such incidents.

Aside from these cases involving the military, sexual assault and harassment remain a concern in general in Lebanon. Human Rights Watch has undertaken research on a particularly at-risk population, Syrian refugee women.

Human Rights Watch interviewed 12 female refugees from Syria separately in August and September 2013, who said that they had experienced sexual assault, harassment, or attempted sexual exploitation, sometimes repeatedly, by employers, landlords, local faith-based aid distributors, and community members in Beirut, the Bekaa, and North and South Lebanon.[6] Eight of the women were widowed, unmarried, or in Lebanon without their husbands. All 12 women were registered as refugees with UNHCR.

The women Human Rights Watch interviewed said they did not report 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.

Syrian refugees in Lebanon are required to renew six-month residency permits at a cost of $200– a very heavy burden for many refugees. Further, under regulations announced in December 2014, the criteria for applying for residency, which includes the need to provide a number of different documents as well as fees, has been reported as being confusing, cumbersome and expensive. Without a residency permit, refugees are subject to arrest.

Changes in the entry procedures in December 2014 limit entry to Lebanon to Syrians who meet the criteria set out in six categories or a narrow humanitarian exception not applicable to many people fleeing Syria on account of real threats to their lives and freedom. One of the categories introduced - sponsorship by Lebanese citizens - raises concerns about the potential for Lebanese citizens to exploit asylum seekers looking for sponsors. Such restrictions may only further exploit Syrian women who are reliant on a "sponsor."

3. Migrant Domestic Workers (Articles 2, 3, 11, and 15)

According to the ILO, there are an estimated 250,000 migrant domestic workers, almost all women, residing in Lebanon.[7] The domestic worker sector is rife with complaints of non-payment of wages, excessive working hours, forced confinement, as well as physical and sexual abuse. The visa-sponsorship system, known as *kafala,* which ties migrant workers to their employers, and the lack of labor law protections heighten migrant domestic workers' risk of such abuse.

Lebanese labor law excludes domestic workers from standard labor protections afforded to almost all other categories of workers, such as the right to a weekly day of rest, paid leave, benefits, and

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[6] Human Rights Watch news release, "Lebanon: Women Refugees From Syria Harassed, Exploited," November 2013; http://www.hrw.org/news/2013/11/26/lebanon-women-refugees-syria-harassed-exploited

[7] ILO, "Lebanon," http://www.ilo.org/beirut/countries/lebanon/lang--en/index.html

worker compensation.[8] The CEDAW committee in its last review called on Lebanon to enact legislation regulating the employment of domestic workers however this has not been implemented. Under the kafala system, migrant domestic workers lose their legal status if their sponsor terminates their contract, or if they decide to leave their employers. Accordingly, a migrant domestic worker who leaves an employer and files a complaint against him or her loses the right to work and faces potential detention and deportation.

These women are also obliged to live in the home of their employer as a condition of their work visa. Some try to leave their employer – referred to as running away -- often with serious consequences: Human Rights Watch documented an alarming number of deaths of domestic workers, primarily from suicide or from risky escape attempts from high stories of residential buildings.[9]

Human Rights Watch in its 2010 report found that the Lebanese judicial system was failing to protect the rights of domestic workers, with many workers not receiving justice. It found that the system is, albeit with exceptions, largely inaccessible and unresponsive.[10] A number of factors mean that these workers often do not file or pursue complaints against their employers, or else settle on unfavorable terms. These include lack of judicial support, fear of counter charges and being held in detention, and restrictive visa policies that make it hard for such workers to pursue cases that can take months –and often years– to wind through the protracted judicial process. For many, the need to earn money to support their families, and the impulse of abused workers to return home quickly, may also prompt them to withdraw their complaints rather than seek redress. A Human Rights Watch review of 13 criminal cases that domestic workers brought against employers found they took an average of 24 months to be resolved, while domestic worker complaints for unpaid wages filed in civil courts lasted between 21 and 54 months. Complaints brought before labor courts, which are supposedly faster than regular civil courts because their procedures are simpler, lasted 32 months on average.

Some domestic workers can seek refuge in shelters run by NGOs or embassies while their case is pending, but places in shelters are limited and immigration laws restrict their freedom of movement. Lebanese courts have on occasion allowed domestic workers to return home while their lawyers follow up on the criminal case against abusive employers. However, such cases remain limited, especially since many domestic workers do not have a lawyer.

When domestic workers do complain they often face official inaction on the part of police and judicial authorities, which have failed to treat certain allegations as potential crimes, dealt with some complaints meekly, or else ignored them entirely. Even violence against domestic workers—including beating, slapping and punching—often fails to garner the attention of police and prosecutors, who only prosecute extreme physical violence when it is backed up by extensive medical reports.

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[8] Labor Code, Act of 23 September 1946, Art. 7(1). This exclusion applies to all those who work inside the private home of individuals, such as cooks, be they Lebanese or foreigners.

[9] Human Rights Watch news release, "Lebanon: Migrant Domestic Workers Dying Every Week," August 27, 2008, http://www.hrw.org/news/2008/08/24/lebanon-migrant-domestic-workers-dying-every-week See also Human Rights Watch News Release, "Lebanon: Stop Abuse of Domestic Workers," March 31, 2012, http://www.hrw.org/news/2012/03/23/lebanon-stop-abuse-domestic-workers

[10] Human Rights Watch, "Without Protection: How the Lebanese Justice System Fails Migrant Domestic Workers."

Also deterring such workers from filing complaints against employers for ill-treatment is the fact that they may end up facing counter charges of theft, months in pre-trial detention, and trials in which international standards of due process and fairness are not always respected. Human Rights Watch reviewed 84 cases where domestic workers were accused of a crime: in most (61 out of 84), the employer accused the worker of theft. Other accusations included prostitution, violence against the employer or third parties, or carrying false identification papers. At least 76 percent of the accused domestic workers (64 out of the 84 cases) were detained before trial, even when accused of stealing small amounts, often less than $1,500. Most domestic workers who were eventually found not guilty had been detained during trial for an average of three months before being released, although at least four had spent more than eight months in jail before a court found them not guilty.[11]

For the most part, a domestic worker must face the legal system without either adequate legal representation or translation. Of the 84 criminal cases against domestic workers reviewed, 37 (44 percent) did not have a defense lawyer. That number rises to 50 percent if one excludes cases of serious crimes (*jinayat*) in the Criminal Court, where a defense lawyer is usually mandatory and court-appointed.

Most domestic workers also face police and court proceedings without the help of certified translators—despite the fact that many do not speak fluent Arabic and are unlikely to understand the vocabulary used in a police interrogation or trial.[12] Interpreters were rare even in cases where the worker was accused of a serious crime.

Human Rights Watch interviewed many migrant domestic workers, as well as embassy officials, who complained that courts often favor the employer and convict workers purely based on the employer's testimony. Human Rights Watch research indicates that Lebanese courts have a mixed record in this area. Out of the 61 cases reviewed where the employer accused a domestic worker of theft, the court found the worker innocent in only 18 of the cases for lack of evidence. In many cases, the court often took the fact that a worker "ran away" from the employer to be circumstantial evidence in furtherance of the accusation of theft, even when other legitimate reasons for leaving, such as unpaid wages or ill-treatment, were given.

Under Lebanese residency regulations, certain categories of low-wage migrants, particularly domestic workers, are not allowed to sponsor residency for their spouses or children. Lebanon-born children of the migrants could apply for year-long residency up until age four and then could apply for residency if they enrolled in school.

On January 26, 2015, the National Federation of Labor Unions (NFLU) hosted a conference in which more than 200 women took part to establish a domestic workers union. However, on January 27 the Labour Ministry rejected the idea quoted in the media as saying. "Advanced laws would solve the problems that the [migrant worker] sector is suffering from, not the formation of an illegal syndicate."[13]

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[11] In our sample, 18 out of the 61 domestic workers accused of theft were found not guilty by the court. Of those 18, 15 of them were held in pretrial detention for an average of three months before being released.

[12] Only in 11 cases did the court documents and police reports clearly indicate the presence of an interpreter. In the other 16 cases, it was unclear from the court documents if there was an interpreter.

[13] "Lebanese Labor Ministry Rejects Creation of Domestic Workers Union," al-Akhbar News, Jnauary 27, 2015, at http://english.al-akhbar.com/content/lebanese-labor-ministry-rejects-creation-domestic-workers-union

4. Recommendations

The CEDAW committee in its last concluding observations made a number of recommendations that have not been implemented including the calls on Lebanon to "urgently adopt a unified personal status code which is in line with the Convention and would be applicable to all women in Lebanon, irrespective of their religion;" and to "speedily enact the draft law regulating the employment of domestic workers."

We encourage the Committee to make the following recommendations to the Lebanese government:

- Adopt an optional civil code that would ensure equal rights for all Lebanese who wish to marry under it and ensure that it complies with Lebanon's international human rights obligations;
- Require that religious confessions codify their laws and submit them to parliament for review to determine their conformance with Lebanon's constitution and human rights obligations. Religious personal status laws that do not comply should be amended before approval;
- Establish minimum education and training requirements for judges in religious courts, and require a law license and judicial training as a basic condition for their appointment;
- Establish a monitoring mechanism to oversee personal status court proceedings to ensure that judgements are non-discriminatory and comply with Lebanon's international human rights obligations, guaranteeing women and men equal rights in all personal status matters;
- Provide information to couples before they marry on the legal regime that will govern their marital life;
- Provide legal representation for indigent spouses in all personal status lawsuits. Establish hotlines and social and legal consultations inside the religious and civil courts;
- Reform the Law on Protection of Women and Family Members from Domestic Violence to expand the definition of domestic violence to meet UN guidelines on protection from domestic violence. Establish a monitoring mechanism to ensure the law is being carried out, and craft national protocols and strategies relevant to all ministries involved in responding to domestic violence.
- Ensure that allegations of sexual harassment, assault and rape by security forces and agencies are investigated by judicial authorities and not by the security agency accused of the crime.
- Review cases charging defamation for alleging abuse by security forces, and drop retaliatory charges.
- Establish referral pathways between government social service providers and the police and consider providing refugee women who cooperate in the prosecution of those accused of sexual and gender-based violence with immunity from prosecution for immigration law violations.
- Undertake a number of specific reforms to ensure the rights of migrant domestic workers such as:
    - Reform the visa sponsorship system so that workers' visas are no longer tied to individual sponsors, and they can terminate employment without sponsor consent.
    - Extend labor protections in national law to domestic workers and introduce additional protections in line with the ILO Domestic Workers Convention.
    - Set up monitoring mechanisms, in consultation with civil society, to detect and investigate cases of domestic workers abuse.
    - Set up quick and simplified dispute resolution mechanisms to settle salary disputes between employers and migrant workers fairly.

    - Allow domestic workers their right to unionize as per international human rights standards on freedom of association including the right to form and join trade unions.
    - Track the number and cause of domestic worker deaths annually and make this information publicly available.
- Ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the ILO Domestic Workers Convention;
- Consider family interests involved before rejecting the renewal of residency for workers or their children or considering their expulsion.