

Lebanon: A Brief on the Implementation of CEDAW Commitments from
Articles 2, 5, 11, 16 and General Recommendation 12

Information for the Committee on the Elimination of Discrimination against Women

79th Pre-Session Working Group, November 2020

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INTRODUCTION

The WORLD Policy Analysis Center, based at the University of California, Los Angeles, captures quantitative policy data on more than 2,000 indicators that matter to equality, health, and well-being. We strive to improve the quantity and quality of globally comparative data available to policymakers, citizens, national governments, intergovernmental organizations, civil society, and researchers for all 193 UN member states. We submit the following brief in advance of the 77th Pre-Sessional Working Group of the Committee on the Elimination of Discrimination against Women.

This brief will focus on the following five areas:

1. General Equality and Non-Discrimination (Article 2)
2. Non-discrimination in Work and Employment (Article 11)
3. Sexual Harassment in Work and Employment (General Recommendation 12)
4. Paid Maternity and Paternity Leave (Articles 11, 5)
5. Child Marriage (Articles 16, 2)

We have collected and analyzed information on rights, laws, and policies in these areas for all 193 UN member states using a variety of sources, including primary national legal sources (e.g. original legislation and constitutions), national reports on policies and laws to the United Nations and official global and regional bodies, and secondary sources where clarification or corroboration of primary data is needed. Using a rigorous double-coding process, we create original databases which distill thousands of pages of text to highlight the essential features of each right, law, or policy. These original databases are the reference for the following brief. When drafting each brief, we perform a series of additional verifications to ensure the data provided reflects the current constitutional and legal landscape of a country.

In this report, we provide detailed constitutional and legislative excerpts documenting our findings. These findings are followed by suggested questions the Committee may ask Lebanon, as well as topics we hope the Committee will address in their concluding observations. We hope the Committee will recommend that Lebanon address any gaps in consultation and collaboration with relevant stakeholders, including civil society organizations. We also recognize that while having strong laws and policies in place are necessary first steps, implementation is also of paramount importance. In areas where we have commended Lebanon for having provisions in place, we hope the Committee will recommend that Lebanon work with stakeholders to overcome any obstacles in implementing these provisions.



FINDINGS

While the following review is systematic and rigorous, we recognize that there may be laws or policies governing these areas that we have not captured, including new legislation or policies that have not yet been published globally.

1. General Equality and Non-Discrimination (Article 2)

While the entirety of the Convention aims to eliminate discrimination against women in all spheres of life, Article 2(a) of the Convention specifically requires States Parties “To embody the principle of the equality of men and women in their national constitutions”.

We reviewed full text constitutions for all 193 UN member states available from official government sources to determine whether the constitution explicitly guaranteed equality or non-discrimination on the basis of sex and/or gender by prohibiting discrimination, guaranteeing equal rights, guaranteeing equality before the law, or guaranteeing overall equality or equal opportunities.

LEBANON’S CONSTITUTIONAL PROVISIONS: MISSING EXPLICIT GUARANTEES OF EQUALITY AND NON-DISCRIMINATION BASED ON SEX AND GENDER

Based on our review, Article 7 of Lebanon’s constitution guarantees equal civil and political rights and equality before the law to all persons. However, these provisions do not explicitly guarantee equality and non-discrimination to persons based on sex or gender.

Article 7

All Lebanese are equal before the law. They equally enjoy civil and political rights and equally are bound by public obligations and duties without any distinction.

WHY CONSTITUTIONS MATTER

Constitutions state the values of a country, describe the rights of people living within the country, and profoundly influence norms and practice. In nearly all countries, constitutions take precedence over other sources of law—making them critical tools for delineating and implementing equal rights. New constitutions and new rights guaranteed in constitutions can be used to overturn discriminatory laws as well as to legislate non-discrimination guarantees. Moreover, constitutions can offer protection against policy and legal changes during periods of social and political shifts that may seek to undermine equal rights. For these reasons and others, as the foundational document setting out the rights of all human beings in a country, a constitution and the rights contained therein are essential to realizing equal rights.



2. Non-Discrimination in Work and Employment (Article 11)

Article 11 of the Convention outlines specific measures States Parties shall undertake in order to eliminate discrimination in the field of employment.

We systematically reviewed national labor codes, gender equality, and other relevant legislation available through the International Labour Organization's NATLEX database for all 193 UN member states to determine whether national legislation prohibited gender discrimination in employment. We examined legal protections across five areas covered by CEDAW:

- employment opportunities or hiring
- equal pay for work of equal value
- vocational training at work
- promotions or demotions
- job security or terminations

We assessed whether women were explicitly protected from discrimination at work in each of these areas and whether the definition of discrimination included both direct and indirect discrimination. We further examined whether there were provisions that protected women from retaliatory action for reporting discrimination. We also examined whether there were explicit protections from discrimination at work for statuses that intersect directly with women's dual roles as workers and caregivers: marital status, pregnancy, and family status.

LEBANON'S LEGISLATIVE PROVISIONS: LIMITED PROTECTIONS FROM WORKPLACE DISCRIMINATION BASED ON SEX AND GENDER

Based on our review of national legislation, Lebanon's Labor Code explicitly prohibits discrimination between men and women in some key areas of employment but fails to address other areas. Article 26 of the law explicitly prohibits discrimination in employment opportunities, remuneration, and promotions. We did not find any provisions that explicitly prohibit discrimination in vocational training, or terminations. Further, although the law prohibits employers from discriminating in remuneration, the law does not explicitly guarantee equal remuneration for work of equal value between men and women.

Labor Code

Article 26

Il est interdit à l'employeur d'établir une discrimination entre l'homme et la femme qui travaillent en ce qui concerne le genre de travail, le montant du salaire, l'emploi, la promotion, l'avancement, l'aptitude professionnelle et l'habillement.



3. Sexual Harassment in Work and Employment (General Recommendation 12)

Referencing Articles 2, 5, 11, 12, and 16 of the Convention, General Recommendation 12 further recommends that States Parties implement legislation protecting women from sexual harassment in the workplace.

We systematically reviewed national labor codes, penal codes, equal opportunity, and other relevant legislation available through the International Labour Organization's NATLEX database for all 193 UN member states to determine whether national legislation prohibited sexual harassment at work. We examined whether protections from sexual harassment at work were in line with international agreement of what constitutes key components on sexual harassment. Namely, do laws define sexual harassment to cover quid pro quo and the creation of a hostile work environment; include sex-based harassment as well as sexual-behavior based harassment; protect workers from harassment by co-workers and other actors in the workplace, as well as supervisors; and ensure workers are protected from retaliation for reporting sexual harassment?

LEBANON'S LEGISLATIVE PROVISIONS: MISSING EXPLICIT LEGISLATIVE PROTECTION FROM WORKPLACE SEXUAL HARASSMENT

Our systematic review of national legislation did not identify any legislative provisions that protect women from sexual harassment at work in Lebanon.

4. Paid Maternity and Paternity Leave (Articles 11, 5)

Article 11.2 of the Convention states that:

In order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work, States Parties shall take appropriate measures:

(a) To prohibit, subject to the imposition of sanctions, dismissal on the grounds of pregnancy or of maternity leave and discrimination in dismissals on the basis of marital status;

(b) To introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances;

Further, Article 5(b) of the Convention emphasizes the importance of including men in the upbringing of children:

To ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children, it being understood that the interest of the children is the primordial consideration in all cases.

We systematically reviewed national labor codes and social security laws to assess the availability of paid maternity and paternity leave. We relied primarily on legislation downloaded through the



International Labour Organization’s NATLEX database. Additionally, for confirmation or clarification on legal provisions, we consulted trusted secondary sources including the Social Security Programs throughout the World (SSPTW) database, and the International Review of Leave Policies.

LEBANON’S LEGISLATIVE PROVISIONS: NEED TO STRENGTHEN PAID MATERNITY AND PATERNITY LEAVE

Based on our systematic review of national legislation and country reports, Lebanon’s Labor Code provides seven weeks of paid maternity leave to mothers. The law also protects mothers from dismissal during this period of leave. We found no provisions in the Labor Code that provide paid paternity leave to fathers.

Labor Code

Article 28

Les femmes travaillant dans toutes les catégories indiquées dans la présente loi ont droit à un congé de maternité de sept semaines englobant les périodes antérieures et postérieures aux couches, et ce sur présentation d'un certificat médical indiquant la date présumée de l'accouchement.

Article 29

Le salaire sera payé en entier à la femme pendant le congé de maternité.

La femme qui a profité du congé de sept semaines pour l'accouchement, avec le maintien du salaire en entier, peut recevoir un salaire pour la période du congé annuel ordinaire, qu'elle peut obtenir au cours de la même année, en application des dispositions de l'article 39 du code du travail.

Il est interdit de licencier ou d'adresser le préavis de licenciement à une femme durant la période des couches à moins qu'il ne soit prouvé qu'elle s'est employée ailleurs pendant ladite période.

5. Child Marriage (Articles 16, 2)

Child marriage disproportionately affects girls, often leading to social, economic, educational, and health inequalities, which States Parties have committed to eliminating. Article 16.2 of the Convention calls on States Parties to legislate a minimum age of marriage and prohibit the marriage of children. Additionally, disparities in the legal minimum age of marriage between girls and boys contravenes Article 2(a) of the Convention, which commits States Parties to “embody the principle of the equality of men and women” in their “national constitutions or other appropriate legislation”.

We systematically reviewed national civil codes and child-related legislation for all 193 UN member states to determine whether national legislation established a minimum age of marriage for both girls and boys generally, with parental consent, and under religious and customary law. We reviewed all legislation available through the Lexadin World Law Guide, Foreign Law Guide, International Labour Organization’s NATLEX database, regional sources, and official country websites.



LEBANON'S LEGISLATIVE PROVISIONS: MISSING NATIONAL LEGISLATIVE PROVISIONS PROHIBITING CHILD MARRIAGE

Our systematic review of national legislation did not identify any national legislative provisions that govern the minimum age of marriage for all girls and boys. Previous CEDAW and CRC reports indicate that the minimum age of marriage varies by religion and can be as young as 9 years old for girls and 15 years old for boys. Previously, both the CEDAW and CRC Committees have reiterated the need to enact a national minimum age of marriage of 18 years for girls and boys.

CEDAW/C/LBN/3 (2006)

1. Marriageable age

326. The personal status laws discriminate between men and women in their definition of the minimum age for marriage, with some sanctioning an age of less than 15 [...]

CEDAW/C/LBN/Q/4-5 (2015)

Marriage and family relations

20. The State party acknowledges that the plurality of legal systems regulating marriage and family relations discriminate against women and that the degree of discrimination varies according to the applicable legal system, which depends on one's sect (para. 210).

CRC/C/LBN/CO/4-5 (2017)

13. The Committee continues to be seriously concerned that the minimum age of marriage is 14 years for girls and 16 years for boys and even younger in certain circumstances, according to the personal status laws of the different religious communities. The Committee, while reiterating its previous recommendations (see CRC/C/LBN/CO/3, para. 26), urges the State party to adopt expeditiously legislation setting at 18 years the minimum age for girls and boys, and to engage with the religious authorities to prohibit child marriages.



REFERENCE SHEET (LEBANON)

RECOMMENDED QUESTIONS FOR THE LIST OF ISSUES AND CONCLUDING OBSERVATIONS

*Information for the Committee on the Elimination of Discrimination against Women
79th Pre-Session Working Group, November 2020*

We hope the Committee will:

General Equality and Non-Discrimination (Article 2): Missing explicit guarantees of equality and non-discrimination based on sex and gender

- Recommend in its concluding observations that Lebanon consider amending the constitution to add explicit guarantees of equality and non-discrimination based on sex and gender, consistent with CEDAW commitments.

Non-Discrimination in Work and Employment (Article 11): Limited protections from workplace discrimination based on sex and gender

- In its list of issues, ask Lebanon: Can Lebanon confirm whether existing prohibitions of sex-based discrimination at work have been consistently interpreted to prohibit sex-based discrimination in vocational training and terminations?
 - If existing provisions have not been consistently interpreted to prohibit sex-based discrimination in vocational training and terminations, recommend that Lebanon amend its Labor Code to include explicit prohibitions of sex-based discrimination in all key areas of employment, including vocational training and terminations.

Sexual Harassment in Work and Employment (General Recommendation 12): Missing explicit legislative protection from workplace sexual harassment

- In its list of issues, ask Lebanon: Can Lebanon outline any concrete, near-term plans to pass legislation that explicitly prohibits workplace sexual harassment and includes the following key elements?



- An explicit prohibition of sexual harassment that extends to anyone in the workplace, including supervisors, co-workers, and third-parties, such as customers, clients, or contractors;
- A clear definition of sexual harassment behaviors, including quid pro quo, conduct that creates a hostile work environment, and sex-based harassment;
- A prohibition of retaliatory actions against persons who report cases of workplace sexual harassment;
- An effective and inclusive reporting process that ensures all women, regardless of income or social status, have legal recourse.
- If concrete, near-term plans are not in place, recommend in its concluding observations that Lebanon pass and implement legislation that explicitly develops a comprehensive anti-sexual harassment law which includes all elements listed above.

Paid Maternity and Paternity Leave (Articles 11, 5): Need to strengthen paid maternity and paternity leave

- In its concluding observations, recommend that Lebanon increase the duration of paid maternity leave to at least 14 weeks, consistent with widely accepted standards set and endorsed by global institutions such as the ILO and UNICEF.
- In its list of issues, ask Lebanon: Can Lebanon outline any concrete, near-term plans to pass legislation that guarantees paid paternity leave to fathers in all sectors of employment?
 - If Lebanon does not have concrete, near-term plans to guarantee paid paternity leave to fathers in all sectors of employment, recommend in its concluding observations that Lebanon pass and implement legislation that does so.

Child Marriage (Articles 16, 2): Missing national legislative provisions prohibiting child marriage

- In its list of issues, ask Lebanon: Can Lebanon provide an update on the status of its efforts to pass and implement legislation that establishes a minimum age of marriage of 18 years old for both girls and boys, without any exceptions?
 - In its concluding observations, recommend that Lebanon continue to actively work towards passing and implementing legislation that establishes a minimum age for marriage of 18 years old for both girls and boys, with no exceptions.