

# Joint Submission to the Human Rights Council at the 37<sup>th</sup> Session of the Universal Periodic Review.

## Lebanon

### Introduction

1. The Collective for Research & Training on Development- Action<sup>1</sup>, the Nationality Campaign ‘My Nationality is a Right for Me and my Family’, Ruwad alHoukook Frontiers Rights (FR)<sup>2</sup>, SALAM for Democracy and Human rights (SALAM DHR)<sup>3</sup>, Equality Now, the Global Campaign for Equal Nationality Rights (GCENR)<sup>4</sup> and the Institute on Statelessness and Inclusion (ISI)<sup>5</sup> make this joint submission to the Universal Periodic Review (UPR), on the right to a nationality and human rights challenges pertaining to statelessness in Lebanon.
2. This submission focuses on:

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<sup>1</sup> The Collective for Research and Training on Development-Action (CRTD.A) is a non-governmental organization based in Beirut, Lebanon and started operation in 1999. CRTDA works in Lebanon and across the Arab countries and the MENA region in collaboration with partners in Algeria, Bahrain, Egypt, Jordan, Morocco, Syria, and Tunisia. CRTD.A seeks to contribute to citizenship, social justice and gender equality. CRTDA launched at its early inception the Nationality Campaign “My Nationality is A Right for Me and My Family” in 2000 as a regional campaign including countries such as Morocco, Egypt, Tunisia, Yemen, Bahrain, Jordan, Syria, and Algeria. In Lebanon the Nationality campaign is still persistent in demanding change to the discriminatory nationality law through lobbying and advocacy, and capacity building and mobilization of concerned women and their families as well as the general public. CRTD.A is adamant in ensuring that regulations are amended to ensure that during this transition period, Lebanese women married to foreign nationals have facilitated documentation process and have access to public education and health services. The campaign in Lebanon has succeeded in contributing to placing gender inclusive reform nationality law reform in the national political discourse, as well as in the legislative process.

<sup>2</sup> Ruwad alHoukook 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 alHoukook FR’s mission is to promote legal protection of vulnerable population, and to advocate for law reforms and rule of law. Ruwad alHoukook FR is a member of several international networks specialized in combating statelessness and protecting refugees.

<sup>3</sup> SALAM for Democracy and Human Rights (SALAM DHR) is an NGO that endeavours to preserve universal principles of dignity and respect by shielding democracy and human rights. In the pursuit of this vision, SALAM DHR aims to influence British, European and UN representatives to improve the situation in the Middle East, and foster awareness of human rights and democracy. To accomplish these goals, SALAM DHR conducts monitoring and analysis, produces reports, develops recommendations on policy and legislation, organises advocacy campaigns, conducts trainings, and builds effective coalitions. SALAM DHR is actively involved in international cooperation for human rights and democracy, including the production of alternative reports on key human rights topics, coordinating coalitions, lobbying for reform of flawed institutions, and articulating NGO positions at the UN Human Rights Council, the European Parliament, and various domestic bodies.

<sup>4</sup> The Global Campaign for Equal Nationality Rights mobilizes international action to end gender-discrimination in nationality laws, through its coalition of 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.

<sup>5</sup> The Institute on Statelessness and Inclusion is an independent non-profit organisation dedicated to promoting an integrated, human rights-based response to the injustice of statelessness and exclusion. Established in August 2014, it is the first and only global centre committed to promoting the human rights of stateless persons and ending statelessness. The Institute has made nearly 70 country specific UPR submissions on the human rights of stateless persons, and also compiled summaries of the key human rights challenges related to statelessness in all countries under review under the 23<sup>rd</sup> to the 36<sup>th</sup> UPR Sessions.

- a. Gender discrimination in the nationality law of Lebanon that denies women the right to confer nationality on children and spouses on an equal basis with men;
- b. Other gender discrimination in law pertaining to the penal code, rape, and personal status code;
- c. The denial of the right to a nationality and resultant statelessness and human rights challenges faced by affected persons;
- d. The COVID-19 impact on stateless persons in Lebanon.

## Previous UPR of Lebanon under the First and Second Cycle

1. Lebanon was previously reviewed during the sixteenth session (First Cycle) and thirty-first session (Second Cycle) of the UPR, in 2010 and 2015 respectively. During the first cycle, Netherlands, Norway, United Kingdom and Canada recommended that Lebanon amend the law on citizenship to ensure that all Lebanese women, regardless of the nationality of their husband, can pass on their citizenship to their children and spouses. Netherlands and Brazil also recommended that Lebanon amend personal status laws to further ensure that women are treated equally to men in issues related to child custody, inheritance and divorce.<sup>6</sup> All recommendations were noted by Lebanon.
2. Spain recommended that Lebanon 'develop a comprehensive national policy, consistent with the provisions of the Convention on the Elimination of All Forms of Discrimination against Women, with the view to achieving gender equality and to combat gender violence'. Norway recommended that Lebanon 'strengthen its efforts to eliminate discrimination against women in law and practice'.
3. During the second cycle, Germany recommended in 2015 that Lebanon improve the situation of refugees "by facilitating their registration and by renewing residency permits; by setting up an effective mechanism for birth registration to avoid statelessness of new-born children."<sup>7</sup> Lebanon noted this recommendation. As of the Midterm UPR report in 2018, there has been no reported progress on this recommendation. A valid Lebanese residence permit is still required to register the birth of refugee children leading to a proliferation of stateless refugee children.<sup>8</sup>
4. Recommendations related to the ratification of legislation or accession to conventions related to advancing nationality rights and combating statelessness were largely noted. Fourteen states recommended that Lebanon remove its reservations to CEDAW. Eleven states recommended that the state enact reforms to uphold women's right to confer nationality on an equal basis with men. These recommendations echoed those made in Lebanon's First Cycle review (2010). Since its last review Lebanon has not altered its position with regard to these recommendations.<sup>9</sup>

<sup>6</sup> A/HRC/16/18, 12 January 2011, available at: <https://undocs.org/A/HRC/16/18>

<sup>7</sup> A/HRC/31/5, 22 December 2015, available at: <https://undocs.org/A/HRC/31/5>

<sup>8</sup> Arab NGO Network Development- page 16

<https://www.ohchr.org/Documents/HRBodies/UPR/NGOsMidTermReports/ArabNGONetworkDevelopment.pdf>

<sup>9</sup> Civil Society Report Midterm Report 2018, Universal Periodic Review (UPR) Second Round Civil Society Report Midterm Report 2018 Lebanon, pg.48, available at:

<https://www.ohchr.org/Documents/HRBodies/UPR/NGOsMidTermReports/ArabNGONetworkDevelopment.pdf>

## Lebanon's International Obligations

5. Lebanon is not party to the 1954 Convention Relating to the Status of Stateless Persons, the 1961 Convention on the Reduction of Statelessness or the 1951 Convention relating to the Status of Refugees and its 1967 Protocol.<sup>10</sup> Statelessness amongst refugees in Lebanon is widespread. Lebanon hosts the world's largest number of refugees per capita, including an estimated 1.5 million refugees from Syria<sup>11</sup> and approximately 174,000 longstanding Palestinian refugees registered with UNWRA.<sup>12</sup> Lebanon's continued unwillingness to accede to the Refugee and Statelessness conventions in this context is regrettable and contributes to the lack of a legal framework to deal with the significant numbers of stateless people in the country.<sup>13</sup>
6. Despite not being party to the Statelessness Conventions, Lebanon is a party to core international human rights treaties and conventions that confer on the state certain obligations in relation to the right to a nationality and non-discrimination. These include, among others, the Convention on the Rights of the Child (CRC),<sup>14</sup> the International Covenant on Civil and Political Rights (ICCPR),<sup>15</sup> the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW),<sup>16</sup> the Convention on the Rights of Persons with Disabilities (CRPD),<sup>17</sup> and the International Convention on the Elimination of All Forms of Racial Discrimination (CERD).<sup>18</sup> Moreover, the right to a nationality is protected under article 15 of the Universal Declaration on Human Rights (UDHR).<sup>19</sup>
7. While Lebanon acceded to CEDAW, it maintains reservations to several of its articles. Notably Lebanon maintains a reservation on Article 9(2) which obligates signatories to uphold women's right to confer nationality on children on an equal basis with men and Article 16(1)(c), which promotes equal rights and responsibilities during marriage and its dissolution.<sup>20</sup> The CEDAW Committee has stated that reservations to article 16, irrespective of the reasons for which such reservations are lodged, are "incompatible with the Convention and therefore impermissible."<sup>21</sup> The co-submitting organisations consider the state's reservation to CEDAW Article 9 equally to be contrary to the object and purpose of the Convention. We further believe that the provisions

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<sup>10</sup> "A Visit to Lebanon", Allan Leas, European Network on Statelessness, 20 June 2019, <https://www.statelessness.eu/blog/visit-lebanon>

<sup>11</sup> Lebanon- Events of 2018 – article by Human Rights Watch accessed 03.02.2020 <https://www.hrw.org/world-report/2019/country-chapters/lebanon>

<sup>12</sup> Population and Housing Census in Palestinian Camps and Gatherings in Lebanon, 2017, Key Findings Report, Lebanese Palestinian Dialogue Committee, published February 2018.

<http://www.lpdc.gov.lb/DocumentFiles/Key%20Findings%20report%20En-636566196639789418.pdf>

<sup>13</sup> Lebanon – Submission to the UN Committee on Economic, Social and Cultural Rights, 59th Session 19th September – 7th October 2016, Amnesty International, pg. 22 <https://www.amnesty.org/download/Documents/MDE1844352016ENGLISH.PDF>

<sup>14</sup> Under article 7 (1) of the CRC, children shall have "the right from birth to a name [and] the right to acquire a nationality" and, under article 7(2), "States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless". In Article 2(1) the CRC mandates that the rights included in the Convention be upheld without discrimination on the basis of the sex of the child or *the child's parents or legal guardians*. Available at: <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

<sup>15</sup> Under article 24(3) of the ICCPR, "every child has the right to acquire a nationality" available at:

<https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>

<sup>16</sup> Under Article 9 CEDAW States Parties shall grant women equal rights with men with respect to the nationality of their children. Available at: <https://www.ohchr.org/en/professionalinterest/pages/cedaw.aspx>

<sup>17</sup> Under Article 18 CRPD States Parties shall recognize the rights of persons with disabilities to [...] a nationality, on an equal basis with others <https://www.ohchr.org/EN/HRBodies/CRPD/Pages/ConventionRightsPersonsWithDisabilities.aspx#18>

<sup>18</sup> According to article 5 (d) (iii) of that Convention, signatories are obligated to work to eliminate racial discrimination and to "guarantee the right to everyone [...] to equality before law", this including "the right to nationality.

<sup>19</sup> Article 15(1), The Universal Declaration of Human Rights, <https://www.un.org/en/universal-declaration-human-rights/index.html>, 0

<sup>20</sup> Convention on the Elimination of All Forms of Discrimination against Women New York, 18 December 1979,

<https://www.ohchr.org/en/professionalinterest/pages/cedaw.aspx>

<sup>21</sup> <https://www.unicef.org/gender/files/Lebanon-Gender-Eqaulity-Profile-2011.pdf>

of Decree No15 on Lebanese Nationality that distinguish between men and women in respect of their ability to confer nationality contravene the general obligation to eliminate all forms of discrimination against women which arises under Article 2 of CEDAW.

8. Lebanon's unwillingness to withdraw its reservations to CEDAW and to pass reform its antiquated and discriminatory nationality law, under which a Lebanese woman cannot pass nationality to her child unless the child is born outside of legal marriage, constitutes a breach of its international obligations. Further it is inconsistent with Lebanon's assertions in its 2015 UPR submission that it is "motivated by its desire to protect and promote human rights for all its citizens without distinction, and for the foreigners resident in its territory".<sup>22</sup>
9. Lebanon is not a signatory to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, despite multiple previous UPR recommendations in this regard.
10. In May 2018, the UN Human Rights Committee expressed concern that the 1925 Nationality Act does not permit women to pass on their nationality to children and spouses.<sup>23</sup> It recommended that Lebanon amend the Nationality Act such that women would have equal rights as men in relation to the transmission of nationality to children and spouses.<sup>24</sup> The Committee also registered its concern about the complex birth registration procedure. High costs and an onerous quantity of information required to register a birth in Lebanon can lead to this process being avoided or overlooked.<sup>25</sup> The Committee recommended that Lebanon enter into reforms to ensure that each child born in the country has a right to birth registration without discrimination, 'irrespective of the legal status of the parents'.<sup>26</sup>
11. The UN Committee on the Rights of the Child have also commented on violations of children's right to a nationality in Lebanon,<sup>27</sup> noting in 2017 the existence of administrative and discriminatory practices that preclude some children from being registered.<sup>28</sup> In particular it recommended that Lebanon "intensify discussions with the relevant religious authorities and other relevant stakeholders with a view to amending Decree No. 15 on Lebanese Nationality of 1925 to grant Lebanese women equal rights with Lebanese men with regard to transmission of their nationality to their children". Further they ask that Lebanon provide "adequate safeguards" to ensure that children acquire citizenship where they would otherwise be stateless. It also recommended amending the 1951 Personal Status Law to allow births to be registered where the child is over the age of one, the current cut-off point for registration.<sup>29</sup>

## Statelessness in Lebanon- A Snapshot

12. While the exact number of stateless persons is not known, it is estimated that many thousands live in the country. In 1994, there was a wide naturalisation decree that granted Lebanese nationality to over 120,000 stateless residents.<sup>30</sup> In 2010, Lebanese citizenship was granted to

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<sup>22</sup> National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21\*\*\*, Lebanese Republic, Human Rights Council, Working Group on the Universal Periodic Review, 23rd Session, page 2

<sup>23</sup> CCPR/C/LBN/CO/3, 9 May 2018, available at: <https://undocs.org/en/CCPR/C/LBN/CO/3>

<sup>24</sup> Ibid. para 15

<sup>25</sup> Ibid. para 47

<sup>26</sup> Ibid. para 48

<sup>27</sup> CRC/C/LBN/CO/4-5, 22 June 2017, <https://www.refworld.org/publisher.CRC.CONCOBSERVATIONS.LBN.59c912574.0.html>

<sup>28</sup> Ibid. para 17

<sup>29</sup> Ibid.

<sup>30</sup> <https://www.hrw.org/news/2018/10/03/lebanon-discriminatory-nationality-law#>

over 400 foreigners.<sup>31</sup> In 2018, Lebanese citizenship was granted to over 100 foreigners and a few stateless persons. This demonstrates the discretionary nature of the executive's use of naturalisation, while highlighting failures to address statelessness in the country.

13. Uncertainty regarding the number of stateless persons results from the very nature of statelessness and the lack of a census since 1932. The lack of data and difficulty to access available data contributes to perpetuating statelessness and to keeping stateless persons in Lebanon invisible and extremely marginalised. Also, insufficient priority is given to the implementation of measures to identify statelessness and protect the stateless. However, the stateless population in the country is understood to be increasing due to many families' multigenerational statelessness, and increased displacement and migration.<sup>32</sup>
14. There is no legal framework for statelessness in Lebanon. Stateless persons lack legal status. There are no statelessness determination procedures to identify, register and protect stateless persons. There are no records for stateless persons who are simply non-existent for the State – except for those known as “Qayd Dars” (under study) who have a specific register as foreigners of unidentified nationality. Lebanese laws do not define statelessness and rarely mention the term “stateless”, for example in relation to provisions on the jurisdiction of penal courts that extend to “stateless persons”, and to the issuance of laissez passer to “foreigners of unidentified nationality”, and to hospitalisation in public hospitals that is allowed for “needy persons who have no nationality”. The term “Maktoumin” (unregistered) is used to define those who fall under the treaty of Lausanne and Decision 2825.
15. The Nationality law has not changed substantially since 1925. There was public support from the Interior Minister Nouhad Machnouk in 2018 for amending the 1925 Nationality Law. Two political parties promised to amend Lebanon's nationality law to ensure that Lebanese women can pass on their citizenship to their children. On August 6 2018, the Progressive Socialist Part announced a proposal to amend the nationality law to allow Lebanese women to pass on their citizenship to their children and non-Lebanese spouses on an equal basis with Lebanese men, but no action has been taken since.<sup>33</sup>
16. In 2019, the former government promised to promote the rights of women and fight all forms of discrimination against women.<sup>34</sup> The newly formed government has done the same, promising in a statement to ensure full equality between men and women, and to remove all discriminatory legal provisions from all laws and legislative texts.<sup>35</sup>
17. There have been several proposals submitted to government since 2010 to allow women to pass on their nationality. Two were rejected by a Ministerial Committee in 2012 on the grounds of 'high national interests'.<sup>36</sup>
18. Several law projects were submitted in 2018 and 2019 to Parliament, including those by the Future Movement, the Prime Minister's political party,<sup>37</sup> and by the National Commission for

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<sup>31</sup> Ibid.

<sup>32</sup> Allan Leas, A visit to Lebanon, 20 June 2019, available at: <https://www.statelessness.eu/blog/visit-lebanon>

<sup>33</sup> HRW, Lebanon: Discriminatory Nationality Law Grant Lebanese Women's Children, Spouses Citizenship Rights, available at: <https://www.hrw.org/news/2018/10/03/lebanon-discriminatory-nationality-law#>.

<sup>34</sup> <http://www.ministryinfo.gov.lb/32233>

<sup>35</sup> <http://www.pcm.gov.lb/Library/Images/Hok76Ministers/w76n.pdf>

<sup>36</sup> HRW, Lebanon: Discriminatory Nationality Law Grant Lebanese Women's Children, Spouses Citizenship Rights, available at: <https://www.hrw.org/news/2018/10/03/lebanon-discriminatory-nationality-law#>.

<sup>37</sup> [http://nna-leb.gov.lb/ar/show-news/409432/?fbclid=IwAR1kLW85C9Q2gEF-e7MmcyUiO5mygrqkTrHEmWSOSOF48WJ\\_QMMYkmv3CVo#.XNqpi4IPkYM.facebook](http://nna-leb.gov.lb/ar/show-news/409432/?fbclid=IwAR1kLW85C9Q2gEF-e7MmcyUiO5mygrqkTrHEmWSOSOF48WJ_QMMYkmv3CVo#.XNqpi4IPkYM.facebook)

Lebanese Women. The latter proposal distinguished between minor and adult children at the date of its issuance, concerning the degree of retroactive effect: minors would be automatically considered Lebanese, while adults would obtain a green card for five years after which time they can apply for facilitated naturalisation. The proposal was criticised as it discriminates between the children of the same mother, as well as well as denying all Lebanese women the equal right to confer nationality on their children.

19. The Foreign Affairs Minister also proposed an amendment of the 1925 law in 2018 that would give Lebanese women the equal right to confer nationality to their children with foreign fathers, except those originating from the neighbouring countries. The proposed amendment would have also denied Lebanese men married to women from these countries the right to confer nationality on their children.<sup>38</sup> This proposal was widely criticised as it discriminates between women [and men] based on the nationality of their husbands, and would result in increased statelessness amongst children, including the children of Lebanese men married to women who cannot confer their foreign nationality because of gender discrimination in the nationality law of the mother's country.
20. The Socialist Progressive Party made an additional proposal aimed at lifting all gender-discriminatory provisions in the nationality law. This proposal also extended the jus soli principle to children born in Lebanon to stateless persons who hold a residency permit, "Qayd ad Dars" (under study) parents. Lebanon considers this category of foreigners to be of an unidentified nationality.<sup>39</sup>
21. Another related proposal to amend the Juvenile law was submitted by the head of the Parliamentarian Women and Child Committee. It proposes to consider the stateless child as an "at risk" child under the protection of the juvenile judge<sup>40</sup> who may take measures to protect the child, including from statelessness. None of these proposals were discussed by the Parliament.
22. In September 2017, the Personal Status General Directorate issued Circular 34 dated 12/9/2017, exempting Syrian refugees from presenting a valid residence permit to register their children.<sup>41</sup> On 8/2/2018, the Council of Ministers issued Decision 93 exempting the administrative registration of Syrian births taking place between 1/1/2011 and 8/2/2018 from the one-year deadline.<sup>42</sup> This measure was extended on 9/2/2019 to cover births up to 9/2/2019.<sup>43</sup> However, these measures are limited to Syrians and do not extend to other migrants or to Lebanese themselves.

## Discrimination in Lebanon's domestic law

23. The Lebanese constitution is silent on issues of nationality and statelessness, save for stating that "Lebanese nationality and the manner in which it is acquired, retained, and lost is to be determined in accordance with the law".<sup>44</sup>

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<sup>38</sup> <http://nna-leb.gov.lb/ar/show-news/334681/>

<sup>39</sup> Available at: <http://nna-leb.gov.lb/ar/show-news/358867/nna-leb.gov.lb/en>

<sup>40</sup> <http://nna-leb.gov.lb/ar/show-news/405405/>

<sup>41</sup> Directorate General of Civil Status, available at: <https://www.dgcs.gov.lb/arabic/decisions>

<sup>42</sup> Ibid.

<sup>43</sup> Ibid.

<sup>44</sup> Article 6 of the constitution.

24. Article 2 of Lebanon's Code of Civil Procedures provides that where national law conflicts with an international treaty, the latter will prevail. In principle therefore, as Lebanon is a signatory to the ICCPR, CRC, and CEDAW, the terms of these treaties should prevail. Despite these legal requirements, the state has not upheld its obligations related to nationality rights and non-discrimination as mandated in these Conventions.

#### Gender discrimination in acquisition of nationality

25. The acquisition of Lebanese nationality follows the *jus sanguinis* and *jus soli* principles. The main source of nationality law is the 1925 Nationality Law.<sup>45</sup> Article 1 provides that every child born to a Lebanese father is Lebanese. This applies to children born within marriage, and in limited circumstances, to children born outside of legal marriage. According to the law, a Lebanese woman can only pass her nationality to a child born outside of legal marriage.<sup>46</sup>

26. The *jus soli* principle only applies if no other nationality can be attributed to a child when they are born. The child can acquire nationality only if both parents are unknown or have unknown nationality.<sup>47</sup>

27. In principle, minors born to a naturalised father become Lebanese by operation of the law (Article 4 of Decision 15/1925). However, minors born to an unmarried naturalised father face difficulties to acquire this derivative nationality automatically and have to resort to court. Minor children born to a naturalised mother and foreign father become Lebanese, only if their foreign father is deceased.

28. A stateless woman married to a Lebanese man may acquire the Lebanese nationality by marriage one year after the registration of marriage by a judicial decision, based on Article 5 of the nationality law. Foreign wives may apply for nationality by a simple administrative procedure. The obstacles to securing nationality by marriage is therefore much greater for stateless women, who must secure a favourable judicial decision.

#### Discrimination in Family Status Laws in Lebanon

29. Lebanon does not have a civil code regulating personal status matters, instead there are 18 confessions, 15 separate personal status laws governing the lives of women and girls in terms of marriage, custody, alimony, divorce and inheritance which include provisions which discriminate against women and girls in both Christian and Muslims families.

30. Religious courts and institutions implement personal status laws, which are built on the notion that men are the 'head of the family', hence preserving the inequality of women under the law. Discrimination on the basis of sex is therefore legalised and protected by law.

31. The co-submitting organisations reiterate the concerns expressed in the concluding observations of the Committee of the International Covenant on Civil and Political Rights (CCPR) in May 2018, "that religion-based personal status laws discriminate against women in such matters as marriage, pecuniary rights, divorce, child custody and inheritance. It is also concerned about: (a) the limited oversight over religious courts dealing with personal status

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<sup>45</sup> Decree No 15 on Lebanese Nationality including Amendments [Lebanon], 19 January 1925, available at: <https://www.refworld.org/docid/44a24c6c4.html> [accessed 3 July 2020]

<sup>46</sup> EUDO CITIZENSHIP OBSERVATORY COUNTRY REPORT: LEBANON Melkar el-Khoury, Thibaut Jaulin September 2012.

<sup>47</sup> Art. 1, sec. 3 Decree No 15 on Lebanese Nationality including Amendments [Lebanon], 19 January 1925, available at: <https://www.refworld.org/docid/44a24c6c4.html> [accessed 3 July 2020]

matters;...” The Committee also recommended that the “State party should repeal all discriminatory provisions against women in its legislation and consider adopting a unified personal status act that would apply to all persons, regardless of religious affiliation, and guarantee equality between men and women and respect for freedom of thought, conscience and religion. It should also provide for the option of civil marriage and for the legal recognition of such marriages...”.<sup>48</sup>

## **Other Gender Discrimination in Law Pertaining to the Penal Code, Rape, and Personal Status Code**

### Exemption of rapists and perpetrators of gender-based violence from punishment upon marriage

32. The co-submitting organisations welcome the repeal of Article 522 of the Lebanese Penal Code in August 2017, which had previously enabled perpetrators of rape, kidnapping, or statutory rape to avoid prosecution or punishment if they married the victim. This is important progress and provides survivors of rape and kidnapping with the opportunity to access justice. However, other provisions in the penal code that discriminate against women and girls continue to enable impunity for perpetrators, such as Articles 505, 518, and 519.
33. Article 505 currently allows for the marriage of adults with minors who are 15 to 18 years-old in “consensual” relationships under the supervision of a judge and a social worker. If amended, Article 505 would instead punish adults who have sex with 15-18-year-olds girls, without any exceptions for subsequent marriage. Article 518 allows prosecutions to be stopped or sentences to be suspended for men who marry “virgin” girls they had initially “seduced” with promises of marriage and any sentence or prosecution they would have faced for this seduction, is suspended under this Article. Article 519 currently gives consideration to a minor’s “consent” in cases of “sexual harassment” of 15 to 18-year-old girls.
34. On 2 November 2017, a proposal to amend these sex discriminatory articles was submitted to the Speaker of the House by three members of Parliament, in consultation with the National Commission for Lebanese Women (NCLW). However, the Speaker of the House has yet to submit the bill to the full Parliament for a vote.
35. As set out in Equality Now’s 2017 Report [The World's Shame - The Global Rape Epidemic - How Laws Are Failing to Protect Women and Girls](#),<sup>49</sup> such provisions and exemptions to the application of criminal law fail to prevent and combat discrimination against women and girls and ensure that survivors of sexual violence have access to justice. Moreover, these types of provisions help fuel the global rape epidemic and are incompatible with the Sustainable Development Goals, particularly SDG 5, which were adopted by UN member states in

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<sup>48</sup> Ibid.

<sup>49</sup> Available at <http://www.equalitynow.org/campaigns/rape-laws-report>

<sup>50</sup> This includes under Goal 5 provides that States should “eliminate all forms of violence against all women and girls in the public and private spheres” (Target 5.2) and “adopt and strengthen sound policies and enforceable legislation for the promotion of gender equality and the empowerment of all women and girls at all levels” (Target 5.c), and Target 10.3, which calls on all governments to “[e]nsure equal opportunity and reduce inequalities of outcome, including by eliminating discriminatory laws....”.



September 2015,<sup>50</sup> among other international commitments made by Lebanon.<sup>51</sup>

36. Article 519 should no longer consider a minor's "consent" in cases of "sexual harassment" of 15 to 18-year-olds. In May 2018, the UN Human Rights Committee<sup>52</sup> expressed its concern that Articles 505 and 518 of the Criminal Code are still applied to exempt rapists of minors between 15 and 18 years of age from prosecution or punishment when the survivors have been promised for marriage to the rapists by their parents. The Committee urged Lebanon to "amend articles 505 and 518 of the Criminal Code to ensure that perpetrators of rape incur criminal responsibility without exception and regardless of the age of the victim."

## Other causes of statelessness

### Stateless Persons excluded from the 1932 Census

37. Statelessness is not only a result of legislative gaps and gender discrimination in national legislation. Large numbers of Lebanese people of differing ethnic backgrounds, in particular, Palestinians, Armenians, Syrian refugees and, Bedouin people, were excluded from the 1932 census, which was the last census in the country.<sup>53</sup>
38. The main category of stateless population is homegrown, whom for a number of reasons were not registered in the population census of 1932. Every Ottoman subject residing in Greater Lebanon on 30 August 1924 was considered Lebanese by force of the law.<sup>54</sup> The Decision 2825 gave adults the right to opt for Lebanese or other nationalities of the newly created States that were part of the Ottoman Empire. Those who opted for Lebanese nationality were provided IDs. The 1932 general population Census was conducted and those who registered and met the two conditions of Decision 2825 acquired Lebanese nationality provided they presented IDs as proof of acquisition. Those who did not opt for a Lebanese ID were counted as foreigners or "without nationality". Others, such as some nomad tribes, did not register. Many could not prove the required condition of six months continuous residency within the year.
39. Further, statelessness was caused by the lack of officially demarcated borders between Lebanon, Syria and Palestine. Some people evaded the census on purpose, for political reasons, ignorance of the importance of the Census, or by fear of being recorded and then called for military service. Anyone who could prove today that their ancestors had the right to be recorded as Lebanese in the Census records has the right to claim the Lebanese nationality, via a lawsuit against the State. However, providing proof of evidence of Ottoman origin and residence

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<sup>50</sup> This includes under Goal 5 provides that States should "eliminate all forms of violence against all women and girls in the public and private spheres" (Target 5.2) and "adopt and strengthen sound policies and enforceable legislation for the promotion of gender equality and the empowerment of all women and girls at all levels" (Target 5.c), and Target 10.3, which calls on all governments to "[e]nsure equal opportunity and reduce inequalities of outcome, including by eliminating discriminatory laws....".

<sup>51</sup> See UN Human Rights Committee (HRC), CCPR General Comment No. 28: Article 3 (The Equality of Rights Between Men and Women), 29 March 2000, CCPR/C/21/Rev.1/Add.10, available at: <https://www.refworld.org/docid/45139c9b4.html> [accessed 3 July 2020], ¶124 "A woman's free and full consent to marriage may also be undermined by laws which allow the rapist to have his criminal responsibility extinguished or mitigated if he marries the victim. States parties should indicate whether marrying the victim extinguishes or mitigates criminal responsibility and, in the case in which the victim is a minor, whether the rape reduces the marriageable age of the victim, particularly in societies where rape victims have to endure marginalization from society." See also: the Joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee on the Rights of the Child on harmful practices against Women on harmful practices, CEDAW/C/GC/31- CRC/C/GC/18, ¶41 ("legislation that enables a perpetrator of rape and/or other sexual crimes to avoid sanctions through marriage to the victim," is "contrary to the obligation of the States parties under both conventions"). Available at: <https://digitallibrary.un.org/record/807256>

<sup>52</sup> CCPR/C/LBN/CO/3, 9 May 2018, available at: <https://undocs.org/en/CCPR/C/LBN/CO/3>

<sup>53</sup> UNHCR, Lebanon, Stateless Persons, available at: <https://www.unhcr.org/lb/stateless-persons>.

<sup>54</sup> According to Decision 2825 of 30 August 1924

in Lebanon in 1924 is a major obstacle for many who wish to claim Lebanese nationality. Despite the new law on “Access to Information”,<sup>55</sup> access to the public records of the Ottoman censuses or the 1932 Census is possible only through litigation and requires a judicial decision.

40. The laws in force provide some safeguards against statelessness, but are not widely applied. Those who can prove their Ottoman origin and residence of these ancestors in Lebanon on 30 August 1924 have the right to claim the Lebanese nationality by operation of the law, according to laws that extended the deadlines for registration in the Census and law 68/1967 that provided that the lawsuits of *maktoumin* (unregistered) based on the Lausanne treaty and Decision 2825 should be brought before the State.<sup>56</sup>

#### Lack of Birth Registration

41. Furthermore, children born to parents or ancestors who have acquired Lebanese or another nationality may become stateless if the parents fail to register their births within one year, as prescribed by law, and if they fail to submit a late birth registration lawsuit later.
42. Reasons for failure to register the birth vary. In many instances this is due to the failure to register the parents’ marriage due to various reasons, including conflicts between the religious and civil legal provisions pertaining to marriage and its registration with the civil authorities; the lack of proper documentation to establish marriage; the administrative practice of denying marriage registration to a Lebanese man married to a stateless woman; and the prerequisite of regular stay in the country in order to register the marriage of a Lebanese man and a foreign woman, or two foreign persons who marry in Lebanon. Other reasons behind the failure to register births include lack of proper documentation of birth, challenging requirements and procedures that may be especially complicated for some marginalised people, lack of awareness of the procedures, patriarchal mentalities reflected in legislation, and lack of awareness among mothers of their right to sign birth certificates and declare the birth.
43. In addition, the birth registration process is not automatic and relies entirely on the parents’ initiative. The process requires several steps between different civil servant offices, which requires time and money that many parents cannot afford.<sup>57</sup>
44. Paragraphs 2 & 3 of Article 1 of Decision 15/1925 grants the Lebanese nationality by operation of the law on *jus soli* grounds if the person is born in Lebanon and would be otherwise stateless. In such instances the concerned person must prove they did not acquire a foreign nationality by filiation at birth or that they are born to unknown parents or parents of unidentified nationality. Those born to a Lebanese father, who were not registered during the first year of birth must file a non-contentious late birth registration lawsuit to be registered. The same goes for foreign parents who failed to register a birth in Lebanon within one year, in order to complete birth registration procedures in their own countries.

#### Naturalisation

45. Naturalisation is possible but in very limited circumstances.<sup>58</sup> It is granted by presidential decree which is at the sole discretion of the executive. This is limited to foreigners and requires the

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<sup>55</sup> Law 28 dated 10/2/2017, available in Arabic at <http://legallaw.ul.edu.lb/Law.aspx?lawId=269965>

<sup>56</sup> Lebanese University, Center For Research And Studies In Legal Informatics, Available at <http://legallaw.ul.edu.lb/Law.aspx?lawId=206942>

<sup>57</sup> UNHCR, Lebanon, Stateless Persons, available at: <https://www.unhcr.org/lb/stateless-persons>

<sup>58</sup> Articles 3 and 4 of the Nationality Law.

applicant to be at least 18 years old and have lived in Lebanon for five consecutive years. After naturalisation, it takes ten years before equal rights are granted to the applicant. Laws passed in 1937 and 1960 enacted provisions that limit the electoral rights of naturalised persons.<sup>59</sup> Another law passed in 1960 concerning the elections of the Parliament provided that naturalised persons may be elected for the legislature only after 10 years since naturalisation.<sup>60</sup>

## Human Rights Violations flowing from the deprivation of Nationality Rights

46. Stateless persons and children of Lebanese women denied Lebanese nationality face wide-ranging human rights violations and hardships throughout their lives. Affected persons may be unable to travel because they do not have an ID; children are unable to sit public exams to access certain professions; formal employment is often denied and informal sector jobs come with increased risk of exploitation; some children are denied education and healthcare, resulting in 'lifelong discrimination'.<sup>61</sup> Further, being stateless results in a greater risk of abuse, trafficking, arrest and detention.<sup>62</sup>
47. Stateless persons are not protected by any of the laws that regulate access to rights – except the law on hospitalisation in public hospitals that is not enforced. Children are able to enrol in public schools and sit public exams by virtue of circulars by the Ministry of Education and not by the law. They have no access to public hospitals, other than in exceptional circumstances, if one parent is Lebanese, and at the discretion of the Minister of Public Health. They have no access to formal employment (which is only possible for Qaid adDars ). Informal sector jobs come with increased risk of exploitation. <sup>63</sup> Stateless persons have no access to political rights and civil rights are limited.
48. Stateless persons cannot move freely and face the risk of arrest for not holding an ID. Usually, stateless persons use a certificate issued by the *mukhtar* as an identification document. However, this document has no legal value since it relies on the information provided by the persons to *mukhtars* and on *mukhtars* acquaintance with them and is not endorsed by any official authority. Stateless persons may obtain a laissez passer from the General Security, valid for one year renewable and for multiple entries. This document is used to identify the person and for travel. However, it grants no other rights, is costly (60.000 LBP equivalent to 40UD per person per year) and has to be renewed annually.
49. As a result of the lack of legal status and records, stateless persons cannot register their marriages and the births of their children, perpetuating statelessness between generations. Their deaths are not registered. They cannot own property and register their homes and cars – if they can afford having any given their lack of economic rights – under the names of relatives or friends who have a nationality, which may result in conflicts and dependency. They cannot inherit property.

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<sup>59</sup> Eudo Citizenship Observatory Country Report: Lebanon Melkar el-Khoury, Thibaut Jaulin September 2012.

<sup>60</sup> Art. 6, law dated 26/4/1960, available in Arabic at <http://legallaw.ul.edu.lb/Law.aspx?lawid=248713>

<sup>61</sup> UNHCR, Gender Discrimination And Childhood Statelessness, available at: <https://www.unhcr.org/ibelong/gender-discrimination-and-stateless-children/>.

<sup>62</sup> UNHCR, UNICEF, and the Global Campaign for Equal Nationality Rights joint press release, Urgent action needed to reform gender discriminatory nationality laws causing childhood statelessness, available at: <https://www.unhcr.org/uk/news/press/2019/8/5d5e63d9456/urgent-action-needed-reform-gender-discriminatory-nationality-laws-causing.html>.

<sup>63</sup> UNHCR, Gender Discrimination And Childhood Statelessness, available at: <https://www.unhcr.org/ibelong/gender-discrimination-and-stateless-children/>.

50. Some stateless persons register their children under the names of their Lebanese relatives to spare them the plight of statelessness. However, in addition to the risk of being prosecuted for fraud, the child may be stripped later upon the request of the “siblings” for inheritance purposes. Some stateless women deliver in hospitals under the names of Lebanese relatives who have access to the coverage of the Social Security or Ministry of Health. All this results in false or fake identities that have legal, social and psychological repercussions.
51. Stateless children are at risk of being trafficked, since they have no legal documents and no protection. This risk becomes greater for institutionalised stateless children, due to the lack of control on the institutions and their compliance with the obligation to register the children. There is no facilitated access to the records of these institutions. They do not disclose any information to researchers and even sometimes to the administrative and judicial authorities in charge. The dossiers of these children at institutions – accessible only if the institution wishes so and is asking for assistance to register the child and rarely by judicial order - are almost empty: containing no protection orders, police reports, or regular monitoring reports by UPEL (the Union for the Protection of Children in Lebanon) as required by law.
52. Stateless persons have no national or local institutions or offices they can refer to for counselling, information on procedures to end statelessness or to access rights. They fear to approach the authorities to complain in case they were victim of abuse, attack, theft or any violation.

## **Covid-19 Update**

53. In Lebanon, the first case of COVID-19 was recorded on 21 February 2020. On 16 March 2020 the Government announced a state of general mobilisation and medical emergency; it called for all citizens to stay at home, ordered closure of public spaces, restaurants, shopping areas, and other non-essential, private and public institutions. As of 18 March, the airport, port and Syria border were closed. For stateless persons and other marginalised groups in Lebanon, and the implications are further exacerbated. These persons are usually daily workers and have no fixed salaries.
54. Even though Frontiers Rights (Ruwad Al Houkouk) and the UNHCR are not aware of any positive case of a stateless individual who was tested positive to COVID-19, the risk of spreading the virus in the community remains high. The type of support and prevention needed by this marginalised community is high and remains unaddressed to this day. There is no information on whether stateless persons would actually have access testing and free treatment, that they are legally entitled to. Further, stateless persons have no full information about their rights.
55. The State’s response in the Education sector consists of shifting to online platforms – which require access to Internet for the children. As part of the action plan, the government will provide a stipend of approximately 200\$ for the children enrolled in the public schools – however, this includes only children of Lebanese nationality excluding Syrian refugees and stateless individuals.
56. Many UN agencies, local and international NGOs provide additional support to local actors and the most vulnerable in different modalities (such as providing hygiene kits, food parcels, vouchers exchangeable for food, etc.). However, most of these stakeholders excluded stateless

individuals and focus on other marginalised communities (vulnerable Lebanese, Syrian refugees, Palestinian refugees, etc.). Some local actors and municipalities also provided hygiene kits and food items to the local population. Stateless persons did not benefit from these since they are not aware whether they have the right to these relief packages, and some municipalities excluded non-Lebanese from benefitting from such relief measures.

## Recommendations

57. Based on the above information, the co-submitting organisations urge reviewing States to make the following recommendations to Lebanon:

- a. Repeal gender-discriminatory nationality laws and policies. In particular, amend the Nationality Law to uphold women and men's equal right to confer nationality on children and spouses.
- b. Withdraw all reservations to CEDAW, particularly in relation to the right to a nationality (Article 9) and equality within the family (Article 16).
- c. Amend Articles 505 and 519 and repeal Article 518 of the Penal Code to uphold the right of girls to equal protection of the law and to remove the exemption of rapists and perpetrators of gender-based violence from punishment upon marriage.
- d. Comprehensively amend or enact a unified personal status law that would guarantee equality between men and women.
- e. Enact a legal framework on the prevention of statelessness which ensures that all children who are stateless or at risk of statelessness are granted nationality without discrimination against the child, their parents or guardians.
- f. Develop and introduce a legislative statelessness determination procedure, ensuring that the procedure is fair, effective and accessible to all persons in Lebanon regardless of their legal status. The procedure should comply with international standards of due process and follow the procedural safeguards outlined in UNHCR's Handbook on Protection of Stateless Persons. Simplify the birth registration procedure and ensure easily accessible universal birth registration without discrimination, as a tool for protecting the right to a nationality and preventing statelessness.
- g. Uphold the human rights of all persons regardless of nationality including access to education and healthcare.
- h. Do not discriminate in COVID-19 responses on any grounds including nationality, documentation or migration status.
- i. Ensure that the right to a nationality and other rights of stateless people are not undermined as a result of disruptions during the COVID-19 pandemic or for any other reason, and that stateless people have adequate access to information.

