



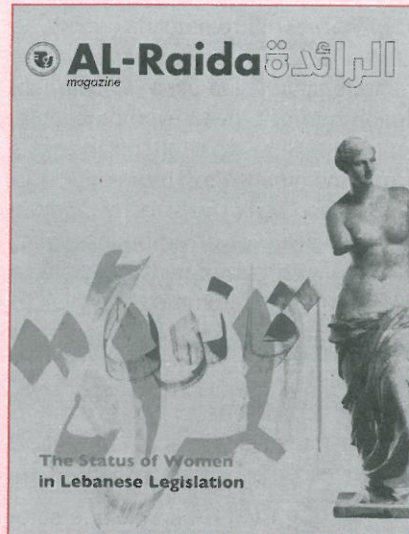
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**The Status of Women
in Lebanese Legislation**



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Arguments Valid for Once Only

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More than a year has passed since Lebanon submitted its second periodic report to the CEDAW Committee (Convention on the Elimination of all Forms of Discrimination Against Women)¹ at the United Nations in New York. The National Commission for Lebanese Women (NCLW)² was assigned the task of preparing that report, and NCLW in turn appointed a committee of its members to monitor the process of this preparation. The report is essentially an overview of the conditions of Lebanese women within the legislative, political, economic, educational, health, social, and cultural sectors. Moreover, it briefly highlights the geographical, political, administrative, institutional, social, and cultural environments of the country.³

In July 2005, an NCLW delegation⁴ represented the Republic of Lebanon in order to carry out a constructive dialogue with the CEDAW Committee⁵ in a plenary session at the United Nations headquarters in New York. The delegation outlined Lebanon's achievements in improving women's conditions, as per the said report, and highlighted the efforts exerted to adequately implement the Convention during the years that followed its ratification, emphasizing the obstacles that faced the implementation process. The 23 members of the CEDAW Committee con-

gratulated Lebanon on the progress achieved in the advancement in women's conditions in some areas, yet they also questioned why some articles of the Convention were still not implemented. The Committee held the Lebanese government accountable for this delay.

Discussion/Questions

First and foremost, it must be said that the official Lebanese report was candid and straightforward in outlining women's conditions in our country. Neither the authors⁶ of the report nor the committee responsible for its preparation⁷ made use of self censorship when giving their presentations. These presentations were based on statistics and field studies that were exhaustive in some instances and only partial in others. While the Committee welcomed such candidness, it noted with concern the state's failure to work actively to change the discriminatory situation against Lebanese women, described by the report.

The interventions of members of the international Committee, during the four-hour discussion period with the official Lebanese delegation, revolved around two main aspects:

First: They expressed their concern regarding the inade-

quacy of the government in implementing the Convention's provisions.

Second: They urged the Lebanese government to devise strategies, policies and plans and to take appropriate measures, including the setting of time-bound targets for monitoring and assessment, to counter discrimination against women in areas where prejudice is still widespread.

As far as the legal framework is concerned, the Lebanese state was urged to make every effort to effectively cancel or amend discriminatory legislation. Moreover, it was encouraged to draft new legislations that incriminate discrimination and violence against women, and to withdraw reservations to some articles of the Convention, calling on it "to adopt a unified personal status code which would be applicable to all women in Lebanon, irrespective of their religious affiliation."

The members of the CEDAW Committee also discussed the situation of women at the political level. They were not content with the leap in the percentage of women representatives that has doubled (from 2.3 percent to 4.6 percent) and did not find it praiseworthy. According to them such a percentage is still very low and is an indicator that the Lebanese state did not take sustained measures to make a real difference. Some members noted that the state failed to take concrete and effective measures to confront sexist attitudes and the stereotyping of women, clearly the product of socialization within the family, i.e. in the private domain.

At the institutional level, some members noted that in order to investigate the seriousness of the Lebanese state in implementing the Convention, one must examine the progressive advancement of the governmental organization created to administer women's affairs and mandated to officially monitor the follow-up of the implementation of CEDAW and the level of support given to this organization. According to the CEDAW Committee, providing the above-mentioned organization with the financial resources and developing its human resources will allow it to carry out its mission more effectively. Some members of the Committee urged the Lebanese state to cooperate and coordinate "more efficiently" with NGOs in the implementation of the Convention "while assuming full responsibility for fulfilling its obligations under the Convention."

Discussion/Defence

The all-women Lebanese delegation chosen to discuss the report with the Committee resorted to the following justifications in order to cover up Lebanon's failure to eliminate discrimination against women:

1. They mentioned, in detail, some positive privileges

Lebanese women enjoyed prior to signing the Convention – such as some non-discriminatory laws on property rights and legal proceedings. They elaborated on the progress achieved after ratifying CEDAW by providing some statistical figures in the fields of education, work, and health.

2. They highlighted the articles in the Lebanese Constitution and in Lebanese legislation that implicitly and indirectly address gender equality in rights and obligations – such as the provisions of the preamble of the Constitution, an integral part of the Constitution, that gives dominance to international treaties and their provisions over national laws and legislations – all in an attempt to address the issue as to why the Lebanese Constitution does not explicitly outlaw gender discrimination.

3. They mentioned the Committee's intimate collaboration with civil society and recommended possible partnership between the governmental institutions and civil society organizations in order to improve women's conditions. It is important to note that this collaboration was repeatedly highlighted during the discussion session while the delegation was trying to answer questions regarding policies and measures taken to combat gender-based violence.

The delegation emphasized the impact of religious sectarianism on dividing the Lebanese people, where personal, familial and sometimes even civic issues are concerned. The most conspicuous example of this impact is manifested mostly in family laws. These laws were declared to constitute the basis of Lebanon's reservations to some items of Article 16 of CEDAW.

Defence and Declaration of Constants

In the discussion session that took place with the CEDAW Committee over the issues raised in the first and second official CEDAW reports,⁸ the Lebanese delegation was very well prepared. Its members, especially its president, were very articulate and well endowed with argumentation skills. Armed with ample information on the conditions of Lebanese women, they were able to link the current state of affairs of Lebanese women to the general social context on the one hand, and to the requirements of the Convention on the other. Indeed, the delegation refrained from discussing certain issues that were considered 'Lebanese constants' which, if tackled, would stimulate conflicts among factions of the Lebanese public.

If the issue of nationality is taken as an example, we realize that Lebanese law expressly distinguishes between women and men. If a Lebanese man marries a non-Lebanese woman, the latter will obtain Lebanese nation-

ality. She will enjoy all the rights of a female Lebanese citizen one year after registering the marriage and attending to the required administrative formalities. However, the same does not apply to the non-Lebanese husband and the children of a Lebanese woman. They do not have legal rights to Lebanese nationality. The argument used in this context is that the Lebanese state applies the principle of 'jus sanguinis' or blood relations of the father rather than 'jus soli' (when children are born in Lebanon) as a necessary condition for gaining Lebanese nationality. This, despite common-sense knowledge that paternity can be insured only by the mother's testimony "if the mother speaks the truth" as the Lebanese saying goes or by means of DNA tests. Nevertheless, members of the Committee did not go into such details and were not interested in debating the presented arguments or discussing the various possibilities. Instead, they focused on the repercussions of the existence of such a law. According to the CEDAW Committee, the withholding of citizenship from the woman's husband and children leads to flagrant unfairness. The existence of such injustice was a sufficient argument to call on the Lebanese state to stretch the meaning of 'jus sanguinis' to encompass the mother, as well as the father, in order to eliminate blatant discrimination.

Introducing administrative measures such as granting the non-Lebanese husband and children free residence permits, consolation prizes, are far from making up for such harmful discrimination. Other such measures include the employed wife/mother's right to include her non-Lebanese family in her Social Security registry and her right to benefit from the allowances of the state cooperative if she is a civil servant. According to the CEDAW Committee such 'charitable' measures or any similar ones are pathetic and fall short of making a positive impression. More effort should be exerted by the Lebanese state in order to withdraw its reservations to Paragraph 2 of Article 9 of the Convention. Other measures are meaningless as they fail to alleviate the discrimination Lebanese women married to non-Lebanese men suffer from. Moreover, they lead to acceptance of such discriminatory practices, as they make the discrimination appear as a lesser 'evil' than it actually is.

The Lesser of Two Evils?

Needless to say, insisting on depriving the children of a Lebanese woman married to a non-Lebanese of Lebanese

nationality is a policy aiming at reducing intermarriages and preserving the delicate and 'treasured balance' between religious communities. Intermarriages – or, as the French used to call them, 'white weddings' between Lebanese women and non-Lebanese men belonging to a certain religious majority, namely Muslim Sunnis – is bound to disrupt the 'treasured' sectarian (religious) balance. The ordeal of Lebanese women married to men of other nationalities, especially Palestinian nationals, is an example that constitutes an almost final dissuasion to all Lebanese women. Indeed, out of 840 women residing in Lebanon who got married to non-Lebanese men between 1995-2000, those married to Palestinians did not exceed 16 (see *As-Safir* newspaper, June 22, 2005). In this context, it is worth noting that a non-Lebanese wife, even if she happens to be Palestinian, can be naturalized; which means that the latter – as well as her children – become Lebanese citizens with full rights and obligations. Thus, the Nationality Act in our country does not only differentiate between men and women but also

between categories of women, where a woman who is not Lebanese by birth receives better treatment than a Lebanese woman married to a non-Lebanese. It is worth noting that CEDAW calls for the elimination of discrimination against all categories of women on Lebanese territories, this was also mentioned by one of the CEDAW Committee members in the context of talking about foreign domestic workers in Lebanon.

An ongoing concern of the Lebanese is the preservation of the sectarian balance, given that many strive to maintain stability through

safeguarding the 'Lebanese formula.' This concern merges with another one enshrined in the Lebanese Constitution, namely the rejection of naturalization of Palestinians in Lebanon in order to safeguard the right of return (of the Palestinians to Palestine). Any debate over those two issues (naturalization and return) is almost a taboo. Even though these side issues were not especially tackled during the plenary session, discussion of the major issue of women's right to pass on their nationality to their husbands and children, highlighted the implicit role the sectarian system plays in generating discrimination against women in our country and which constitutes the main obstacle facing the withdrawal of reservations to Paragraph 2 of Article 9 of the Convention.

Discrimination and Religious Pluralism

The sectarian system discriminates against women and

An ongoing concern of the Lebanese is the preservation of the sectarian balance

does not recognize the total equality between women and men stipulated by the Convention. This is apparent in the Nationality Act. Besides, it is also evident in the Personal Status Codes. The Lebanese delegation tried to explain the prevalent gender inequality as based largely on the multiple forms of religious legislations that form the basis of the social and political system in Lebanon. Members of the delegation also mentioned that the Lebanese Constitution protects the rights of religious communities and delegates to them the management of personal status. The CEDAW Committee expressed its concern about the absence of a unified personal status code that guarantees equality between different categories of women on the one hand, and between men and women on the other. It also questioned the shortcomings of delegating personal status matters to religious communities, an act which is damaging to women. Given that the confessional system delays the achievement of gender equality guaranteed by the Convention, the CEDAW Committee urged the Lebanese state to "adopt a unified personal status code that would be applicable to all women in Lebanon, irrespective of their religious affiliation."

We, members of the delegation, restricted ourselves to the two examples above though they are by no means the only ones that highlight religious pluralism as a Lebanese 'attribute' capable of impeding strategies adopted by the state to bring about equality between men and women in our country.

Though it might seem that the comments and recommendations⁹ of the CEDAW Committee indicate that it is not taking into serious consideration the so-called cultural specificities of Lebanese society, its position seems to be more complex than this. The Committee requested that the Lebanese delegation provide it with a detailed description of the personal status codes that govern the country's 18 different sects. However, even though the CEDAW Committee was aware of the cultural specificities of Lebanese society, this is not necessarily a prelude to the recognition of the necessity for a plurality of codes, nor a reason to acquiesce to their discriminatory provisions.

On the contrary, such knowledge will most probably constitute a solid reference in determining the discriminatory areas and details in those codes and will serve to enrich the Committee's argumentation supporting its recommendation – the necessity to adopt a unified non-discriminatory personal status code that will enable the state to withdraw its reservations to certain items of Article 16 of the Convention.

It is worth noting that the CEDAW Committee takes

into consideration the cultural specificities of the different countries. However, exposing the cultural specificities within a general multicultural meeting under the auspices of the United Nations, and within the framework of a constructive dialogue, is bound to shed light on the arbitrary and indirect role the cultural variables play in sanctioning discrimination against women. This is one of the main purposes of the public dialogue. Moreover, the most tangible objective of that meeting was to urge state parties signatory to CEDAW to overcome all the obstacles – the cultural ones included – in order to abide by the obligations required once the Convention is ratified.

The pressure imposed by the international community lends support to the state and assists it in facing the sectarian authorities and their supporters, that impede implementation of CEDAW and often use the pretext of 'cultural specificities' to cover their discriminatory positions. Hence, given that the Lebanese Constitution embodies the principles of precedence of treaties and international conventions over local laws and legislations, the state may accordingly rely on the international community's recommendations and requirements to draft policies promoting gender equality.

The Positive Shock

It is evident that the official Lebanese delegation received a positive shock in July 2005 during the general 'constructive dialogue' session that took place at the United Nations. Based on the deliberations that took place with the CEDAW Committee, it was concluded that the Lebanese state can no longer monitor and report the expected progress achieved by Lebanese women, nor may it identify with the achievements of civil society. It is inadmissible to use the excuse of cultural specificities to condone discrimination against women, nor is it acceptable to use economic crises or development priorities as pretexts for not combating such discrimination. Such pretexts and rationalizations constituted the substance of the first and second reports and the core of arguments submitted to this year's session.

The questions that might arise are: Can the state submit the same excuses in the next CEDAW report? Can it make use of the same arguments repeatedly? What justification will the state give to explain the religious communities' monopoly over the personal status of its citizens? Why do some reservations to the Convention remain unchanged?

Means of its Investment

The after-effects of the meeting went beyond the issue of drafting and discussing the official report with the CEDAW Committee. The NCLW is the official Lebanese

state institution for women and finds itself facing the difficult and challenging task of implementing the Convention. In its comments and recommendations, the CEDAW Committee detailed what is expected of the Lebanese government so that no one can claim ignorance any more. Given that the NCLW lacks the institutional infrastructure (material and human resources, clear prerogatives, professionalism, and full-time employment, etc.) needed to start publicizing and promoting the Convention within Lebanese society (as dictated in its preamble), how could it move forward with its implementation? It is important to note that for five decades women's NGOs in Lebanon have been striving progressively and diligently in their struggle for gender equity and the advancement of women. Moreover, they have been actively involved in overseeing CEDAW's implementation. But, will the state form a partnership with those NGOs in their struggle to counter discrimination against women?

In this respect, it is important to shed light on the joint effort that was established during the preparation for the Beijing Conference¹⁰ between the Lebanese state, women's NGOs, and women's rights activists. However, the partnership between the state – represented by the NCLW – and the women's NGOs is required to be the result of initiatives and activities referred to in the second official CEDAW report in the form of common programs between both groups – as is the case in some programs of the Ministry of Social Affairs and the Ministry of Health. A comprehensive alliance between all governmental and non-governmental forces constitutes a necessary condi-

tion to move forward towards new levels and fields of action along the path already designated, under a unifying umbrella with new impetus and a clearer horizon.

Nevertheless, such an alliance, in one of its aspects, will have to deal with the sectarian issue, one of the 'constants' within Lebanese society. Is the NCLW, whose structure is essentially based on religious pluralism and sectarianism, ready to take part in the struggle against confessionalism that was adopted by NGOs in their attempt to "eliminate all forms of discrimination against women" by way of implementation of the Convention?

The head of the Lebanese delegation noted, at the end of her speech in the discussion session at the United Nations, that "peace is fundamental to give women's issues the attention they deserve." However, the excuse of the absence of the peace (longed for in our tumultuous region) and lack of 'social peace' (what if such peace is based on the sectarianism, the basis for maintaining discrimination against women in our country?) as a cause for the regression in women's conditions and a necessary condition for achieving equality. It appeared to us, in that meeting, that probably the value of such international conventions lies in their expectation of, and insistence upon, continuous progress towards the generally envisaged aims. In this case, the aim was the total implementation of CEDAW, despite any particular circumstances or pending problems.

Translated by Nadine El-Khoury

Endnotes

1 Lebanon ratified CEDAW in 1996 and made reservations to items of Article 16 that contradict civil status codes of religious communities and to a paragraph of Article 9 related to the Nationality Act, in addition to reservations to an article on international arbitration not specifically related to women's issues.

2. The National Commission for Lebanese Women (NCLW) is an official Commission whose members are appointed by the Council of Ministers. They are women "whose activism for women's issues is recognized." It has a consultative mission to the state administrations and institutions, and a coordination mission between those administrations and institutions and civil society, as well as between Arab and international commissions dealing with women's issues.

3. The report is available to the public at the NCLW office in Hazmieh, and on the NCLW website: www.nclw.org.lb

4. The delegation was formed by Layla Azuri Jumhuri, head, Azzah Shararah Beydoun, Ghada Hamdan and Jumanah Mufarraj, members.

5. The Committee on the Elimination of all Forms of

Discrimination Against Women (the CEDAW Committee) is formed of 23 members of the United Nations, delegated by the General Assembly to supervise and monitor the implementation of the Convention in state parties, where each state party appears before it once every four years.

6. The following researchers drafted and supervised the publication of the report: Maha Al-Muqaddam, Azzah Shararah Beydoun, Layla Azuri Jumhuri, Jumanah Mufarraj, Marguerite Helou, Fadya Hoteit, Rana Khoury, Becharah Hanna, Hiam Kaai.

7. The authors of the report and the committee supervising its preparation are male and female researchers specialized in the areas of concern covered by the Convention.

8. The first and second periodic reports were discussed together.

9. Available on the NCLW website: www.nclw.org.lb

10. The Fourth International Conference for Women held in Beijing issued recommendations to the member states, including Lebanon, on main areas of women's issues.

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