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**Alternative Report to the Committee on the
Elimination of Discrimination against
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***“Women's Rights in Lebanon: Gender
Discrimination in terms of Nationality
and Residency”***

Alternative report to the Committee on the Elimination of Discrimination against Women, 40th Session **Women's Rights in Lebanon: Gender Discrimination in terms of Nationality and Residency**

Introduction:

Hundred of thousands of Lebanese women married to foreigners are victim of gender discrimination in terms of nationality and residency. Such discrimination results with human sufferings, breaking ties with their national country, family breakdown, stateless children. This situation is further aggravated if Lebanese women are married to refugees or stateless persons. They are left with no option but to lead a marginalized life without legal recognition because the laws and regulations do not allow them to obtain nationality for their husbands and children. This is increasing the number of stateless persons in the country. This policy also affects registered refugee women married to non-registered refugee men. These refugee women are not allowed to give their legal status to their husband and children. Here both UNRWA and the Lebanese government practice gender discrimination in violation of the principle of equality of all citizens in duties and rights and the principle of equality before the law embodied in the Lebanese Constitution and **CEDAW's Articles 1, 2, 9 and 15**.

Frontiers Association, a grass roots Lebanese non-governmental human rights organization, was established in late 1999 to defend the right of refugees and asylum seekers, migrant workers, and stateless persons. It mainly advocates for the legal recognition before the law.

This report is limited to the policy of gender discrimination between Lebanese men and women married to foreigners in terms of nationality and residency. It also includes issues of the discrimination between non-nationals male and females particularly refugees in terms of legal status and residency.

This report is heavily based on Frontiers' own work with individuals facing such discrimination.

Lebanon has ratified the CEDAW Convention at 1997 and made reservations on articles 9.2 and 16.1 (c), (d), (f), (g)¹ and so far has not ratified its Optional Protocol entered into force on 22 December 2000. The Lebanese government had submitted reports in 2004,² 2005,³ and in 2006.⁴

Lebanon has not taken any steps to comply with the Committee criticisms and recommendations particularly the request to withdraw its reservations to Articles 9 and 16 as being “contrary to the object and purpose of the Convention”.⁵ Moreover Lebanon has not made any amendments to the existing Nationality law since it ratified CEDAW Convention to eliminate all forms of gender discrimination despite the numerous demands made by the civil society the last one being the Campaign entitled ‘My nationality is a right for me and my family’ launched in the autumn of 2005.⁶

1. Constitutional Guarantee of Equality of all Citizens

The Lebanese Constitution does not mention expressly the prohibition of discrimination between men and women. The CEDAW Committee has recommended Lebanon “to include provisions guaranteeing equality on the basis of sex, in line with the Article 2 (a) of the Convention, in Constitution or in other appropriate legislation...”⁷

However, the Constitution stresses the principle of equality between all the citizens. Paragraph (c) of the Preamble states that “Lebanon is ... based on respect for... social justice and equality of rights and duties among all citizens without discrimination.”⁸ Further, Article 7 of the Constitution mentions that “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”.⁹

Therefore, any legislation that allows discrimination between the Lebanese citizens should be considered unconstitutional.

Further, the CEDAW Committee recommended that consideration be given to including the Convention on the Elimination of All Forms of Discrimination against Women among the international human rights instruments mentioned in the preamble to the Constitution.¹⁰ However, paragraph (b) of the Preamble of the Lebanese Constitution states clearly that Lebanon is a founding member of the United Nations and bound by its treaties and the Universal Declaration of Human Rights and it incorporates such principles in all fields and areas without exceptions.¹¹ As the Preamble of the Constitution has the same constitutional value as its body, this should be interpreted to include CEDAW Convention and therefore Lebanon’s reservations as unconstitutional.

¹ Declarations, reservations and objections to the Convention on the elimination of all forms of discrimination against women CEDAW, available at www.un.org/womenwatch/daw/cedaw/states, accessed on January 8, 2008.

² Committee on the elimination of discrimination against women, Initial reports of State parties, Lebanon, September 2, 2004, CEDAW/C/LBN/1, available at www.un.org/womenwatch/daw/cedaw/reports

³ Ibid, CEDAW/C/LBN/2, February 11, 2005, available at www.un.org/womenwatch/daw/cedaw/reports, accessed on January 8, 2008

⁴ Ibid, CEDAW/C/LBN/3, July 6, 2006

⁵ Committee on the elimination of discrimination against women, Concluding comments, Lebanon, CEDAW/C/LBN/CO/2, July 2, 2005, available at www.un.org/womenwatch/daw/cedaw/recommendations, accessed on January 8, 2008

⁶ Committee on the elimination of discrimination against women, Initial reports of State parties, Lebanon, CEDAW/C/LBN/3, July 6, 2006, available at www.un.org/womenwatch/daw/cedaw/reports, accessed on January 8, 2008, p. 51, paragraph 164

⁷ Committee on the elimination of discrimination against women, Concluding comments, Lebanon, CEDAW/C/LBN/CO/2, July 2, 2005, available at www.un.org/womenwatch/daw/cedaw/recommendations, accessed on January 8, 2008

⁸ Lebanese Constitution, preamble, paragraph c

⁹ Ibid, Article 7

¹⁰ Committee on the elimination of discrimination against women, Concluding comments, Lebanon, CEDAW/C/LBN/CO/2, July 2, 2005, available at www.un.org/womenwatch/daw/cedaw/recommendations, accessed on January 8, 2008

¹¹ Lebanese Constitution, preamble, paragraph (b)

2. Gender Discrimination in the context of nationality

Lebanon continues today to discriminate between Lebanese women and Lebanese men as to the right to grant their nationality to foreign spouses and children born of these marriages.

Article 6 of the Constitution assures that “Lebanese nationality and the manner in which it is acquired, retained, and lost is to be determined in accordance with the law”.¹² For that reason, Law of the Lebanese Nationality was issued by Decision 15 in 1925. Provisions of this law were amended, the last one by Law of 11 November 1960.

Despite the constitutional guarantee of equality of Lebanese citizens, the nationality laws embody gender discrimination at different levels:

First Level: Discrimination at the conceptual level

The Lebanese nationality is based on two concepts:

a- The principle of jus sanguinis

Article 1 of Law 1925 states that is considered a Lebanese:¹³

- The children of a Lebanese father
- The person born in Great Lebanon and did not prove that he/she has acquired on birth another foreign nationality by filiation.
- The person born in Great Lebanon from unknown parents or parents whose nationalities are unknown

Hence the State of Lebanon considers the bond of blood as the fundamental criterion for children born of Lebanese parents to obtain the Lebanese nationality.

The bond of territory is a secondary less important criterion, and could be applied in limited situations such as children born of unknown parents and/or have no other nationality (stateless).

This proves that Lebanon adopts primarily the principle of jus sanguinis in order to grant its nationality.

b- The patriarchal system of nationality transfer

As stated above, Article 1 of Law 1925 states that children of a Lebanese father are considered to be Lebanese. The child of a Lebanese man is automatically a Lebanese.¹⁴

There is no mention of children of a Lebanese mother. Therefore, Lebanon follows the bond of blood in regards to the father's nationality only.

Second level: Discrimination between Lebanese citizens married to foreigners

¹² Lebanese Constitution, Article 6

¹³ Decision 15 on nationality, 1925, Article 1, in Nationality, statistics and personal status documents, Sader editions, number 36

¹⁴ Ibid

a- The case of Lebanese men married to foreign women (including refugee and stateless):

Article 5 of the Nationality Act of 1925 confers nationality to foreign wives of Lebanese men automatically one year after the marriage's registration.¹⁵ Accordingly, foreign women married to Lebanese men are entitled to acquire Lebanese nationality automatically only one year after the marriage. Their children are automatically Lebanese.

b- The case of Lebanese women married to foreigners (including refugee and stateless):

Lebanese women married to foreigners cannot grant their husbands the Lebanese nationality automatically one year after the marriage's registration. Nor their children born from this marriage can acquire the Lebanese nationality automatically.

There are however, situations that seemed to allow Lebanese women to grant their nationality to their husband and children. :

Article 3 of Law of 1925 enumerated three situations for a foreigner to request to be naturalized:

- If the foreigner proves he lived in Lebanon for 5 years without interruption.
- If he is married to a Lebanese woman and he proves he lived in Lebanon for 1 year since his marriage without interruption.
- If he has made great services to Lebanon.

And in these cases, the nationality is granted upon the request of the interested person with the approval of the President of the Republic following the investigations.¹⁶

However, Decision 22 of 19 June 1939 cancelled Article 3 of Law of 1925. Such amendment went against the principle of equality and worsened the situation of Lebanese women married to foreigners. As a matter of fact, the amendments to the Law of Nationality have been to restrict the Lebanese women right to give her nationality to their foreign spouses and not the other way. But some jurists argue that Article 3 is still in force because there have been many amendments to Law 1925 that every amendment has cancelled the previous one. Further, they argue that the consecutive governments kept on granting nationality according to Article 3 of Law of 1925. For, if Article 3 is cancelled Lebanon would not have any legal grounds for the act of naturalization of foreigners. This is the case of the Naturalization Decree of 1994 which was based on Law 1925. As Article 3 is the only provision for naturalization, it proves that it is still in force.

The whole situation shows that there is no uniform law on granting nationality.¹⁷ This opinion is far from being consensual. But it reflects the ambiguities of Lebanese laws related to nationality that need to be unified to avoid any confusion in the implementation of nationality laws.

In all circumstances, whether Article 3 is still in force within the legal framework of Lebanese nationality or not, the legal study of nationality in Lebanon proves the existence of unequal rights recognized to men and women. The discrimination rises from the distinction between Lebanese citizens on the basis of sex.

Level Three: Discrimination between the Lebanese women and foreign women married to naturalized men:

a- Foreign women married to naturalized men

¹⁵ Ibid, Article 5

¹⁶ Ibid, Article 3

¹⁷ Abou Dib Badawi, " The Lebanese nationality", 2001, p.168

Article 4 of Law of 1925 states that “the foreign woman married to a foreign naturalized man and the adults children of this man can ask for the Lebanese nationality without the condition of stay (...). It applies also to the minor children to a father who had been naturalized or of a mother who has obtained it and survived the death of the husband; they become Lebanese unless they refuse the Lebanese nationality during the year following their maturity date.”¹⁸

b- Lebanese women married to foreigners

As explained above, Lebanese women are not entitled to grant their husbands the Lebanese nationality automatically. However this right could be conferred to Lebanese women through Article 4 if interpreted in a specific manner.

In fact Article 4 was contested in the doctrine and in the jurisprudence. The debated issue was about the difference between the minor children of a woman who has been naturalized and the minor children of a Lebanese woman who has lost her Lebanese nationality by marrying a foreigner then has taken it back later. This situation is raised by the amendment of Article 7 of the Decision 15 by the Law of 11/1/1960, which permitted the woman who has lost her nationality because she married a foreigner to have it back.¹⁹ The Lebanese High Court (Cour de Cassation) finds that there is no difference between the two categories of women cited above. Consequently the minor children of a Lebanese woman should have the right to obtain the Lebanese nationality.²⁰ This position of the high court is not well received by some appeal courts. The doctrine is divided about this question. Some are supportive²¹ and some reject it.²²

Thus Article 4 provides for discriminatory situations between Lebanese women and foreign women married to naturalized men.

3. Gender Discrimination in the context of residency

Lebanese women are treated like second class citizens when it comes to their right to transfer their nationality to their foreign husbands and children. The patriarchal system goes further to the right to reside in their country with their husband and children. Foreigners married to Lebanese women are treated like any other foreigner. The act of marriage does not give them the automatic right to reside in the country.

Lebanese women and Lebanese men: different legal rights related to residency:

The General Security Office enumerates a list of conditions required for granting residency in Lebanon.²³

- The person should be Lebanese or from a Lebanese origin
- He (or she) should be from a Lebanese mother but he should be under her custody and under 15
- The person should be the wife or the husband of a Lebanese but in the case of the husband, he should certify that he will not practice any remunerated job in Lebanon
- He should prove that he has a monthly income exceeding 5 millions Lebanese pounds resulting from international transfers or retirement pensions and he should certify that he will not practice any remunerated job in Lebanon

¹⁸ Decision 15 on nationality, 1925, in Nationality, statistics and personal status documents, Sader editions, number 36, Article 4, unofficial translation

¹⁹ Ibid, Article 7

²⁰ Lebanese high court, decision number 34, 13/12/1971; decision number 82, 21/10/1970

²¹ Tyan Emile, ‘Précis de droit international privé, 2^{ème} édition, numéro 46 ; Najjar Ibrahim, ‘Al Adl’ magazine, 1972, c /2/, p.

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²² Ghannaja Pierre, ‘Proche- orient- Etudes juridiques 1972 (July-December), p. 249

²³ General Security Office, Required conditions for the residency, available at www.surete-generale.gov.lb, accessed on 29/1/2007.

- He should provide a statement of a bank account proving that he has a credit exceeding 300 millions Lebanese pounds in a bank working in Lebanon enclosed with a certification of abstention of working in Lebanon
- He (or she) should be an employee or a regular worker or a contractual one at an embassy or an international organization in Lebanon
- He should be an Arab or a foreigner investor according to General Security Office the consideration after presenting the necessary documents

Excluding the Palestinian refugees, the General Security Office can also confer residencies called “courtesy residencies” for some categories of foreigners in six additional cases. These cases are:

- An Arab or foreigner from a Lebanese mother if he does not work
- The spouse of a Lebanese man (Arab or foreigner) if she does not work
- An Arab or foreigner born in Lebanon if he/she is pursuing his/her studies
- An Arab or foreigner of Lebanese origin and holding another nationality forcing him to have residency in Lebanon
- The diplomat from all nationalities who had worked in Lebanon and who would like to reside in it after he has retired
- Individuals who have applied for nationality known as “Under Study”

Decree 17561 dated 18 September 1964 organizing the foreigners’ work in Lebanon includes persons who are married to a Lebanese woman and those who are from a Lebanese mother or from a Lebanese origin. These have to obtain the approval of the Ministry of Labor and Social Affairs before obtaining the residency permit.

Accordingly:

- a- Foreign women married to Lebanese men can obtain unconditionally the residency permit (that is in case the foreign woman does not want to obtain the Lebanese nationality).
- b- Foreign men married to Lebanese women can not obtain unconditionally the residency permit. The regulations of their resident permits are quasi similar to any foreigner; most importantly the restriction on their right to work.²⁴ The situation becomes more complicated when the husband is not only a foreigner but also a refugee.²⁵
- c- Lebanese women can grant residency to their children only if they can meet the conditions mentioned above (children under their custody not exceeding 15 years old). The General Security Office can accept to give the adult children of a Lebanese woman a courtesy residency with the condition though of not working in Lebanon.²⁶

It is therefore extremely worrying that Lebanese women are also at disadvantage when they are not even able to grant automatic residency to their spouses based on their act of marriage with a foreigner.

²⁴ According to the Lebanese General Security’s conditions on permanent residency, if the husband of a Lebanese woman wants to demand a permanent residency in Lebanon, he should certify officially that he won’t work in Lebanon

²⁵ For example, Frontiers has been following the case of a Lebanese woman married to an unregistered Palestinian refugee who was expelled by Israel in 1978 and who cannot register with UNRWA because he falls outside the UNRWA working definition. He has been living in Lebanon since 1979, and was not able to obtain residency for himself and his children based on his act of marriage to a Lebanese woman (FR115) available on file

²⁶ General Security Office, Ways of granting a courtesy residency, available at www.surete-generale.gov.lb, accessed on 29/1/2007

This policy covers the situation of Lebanese women married to unregistered Palestinian refugees as well as to non-Palestinian refugees (even if recognized by UNHCR).²⁷ A number of Lebanese women are married to unregistered Palestinian refugees and to non-Palestinian refugees.

The General Security Office, who is in charge of matters such as residency permit, follows a special policy concerning Palestinian refugees.²⁸ There are no provisions for unregistered Palestinian refugees married to a Lebanese woman or for her children.²⁹ As for non-Palestinian refugee, Lebanon does not have any legal provisions and are considered as illegal migrants despite their recognition by UNHCR; these refugees live a clandestine life and face the danger of arrest, imprisonment, and deportation leaving behind them unattended Lebanese wives and children.³⁰

4. Gender Discrimination between Palestinian Women and Men refugees

Frontiers published in 2005 a breakthrough legal and policy study of the unregistered Palestinian refugees in Lebanon.³¹ This study showed that both the Lebanese government and UNRWA practice gender discrimination as to the right to registration.³² As a matter of fact, UNRWA, like the Lebanese government, uses a patriarchal registration system based on male heads of households. This policy violates human rights law, and exacerbates the problem of non-recognition.³³

- a- A registered Palestinian man confers his legal status to his spouse and children.

As mentioned above, both the Lebanese and UNRWA regulations allow a Palestinian refugee to add his spouse and children to his refugee registration record³⁴

- b- A registered Palestinian woman cannot.

Similar right is not given to the Palestinian female.³⁵ Women are not able to add spouses to their own UN files, and cannot pass on status to their children.³⁶

²⁷ Lebanon is not a signatory to the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol, nor does it have a national legal framework for asylum and refugee protection

²⁸ Only registered Palestinian refugees (with UNRWA and the Lebanese government or with the Lebanese government only) are recognized refugees. General Security Office, Ways and methods of giving travel documents and circulation permits to the Palestinian refugees in Lebanon, available at www.surete-generale.gov.lb, accessed on 29/1/2007

²⁹ Ibid

³⁰ For example, a Lebanese woman married to an Iraqi refugee saw her child arrested on grounds of illegal entry. The Court sentence included imprisonment, a fine, and handing over to the General Security Office to decide his fate. The Lebanese nationality of his mother did not protect him nor gave him any privilege over other refugees! (FR223, on file)

³¹ Falling through the Cracks: A legal and policy study, Frontiers, (2005), available on www.frontiersassociation.org

³² In fact, as mentioned above, in order to acquire legal documents, a Palestinian refugee should be registered at the UNRWA and the administration of Palestinian refugees' affairs. Consequently, Palestinian refugees remain under the mercy of UNRWA and the administration of Palestinian refugees' affairs of the Lebanese Ministry of Internal Affairs for legal recognition.

³³ Falling through the Cracks: A legal and policy study, Frontiers, (2005), p.14, available on www.frontiersassociation.org

³⁴ General Security Office, Ways and methods of giving travel documents and circulation permits to the Palestinian refugees in Lebanon, available at www.surete-generale.gov.lb, accessed on 29/1/2007

5. Gender Discrimination resulting in Stateless persons

Lebanon's gender discrimination is contributing to the increase of stateless persons in the country. The policy of denying Lebanese women of their right to grant their foreign husbands and children citizenship and refugee women their legal status often results in creating stateless persons, and creates a situation of dependency on the husband, even after the woman has divorced.³⁷ Actually, if a Lebanese woman can grant her children nationality automatically she will not get into complicated situations concerning residency request. The situation becomes more serious when the Lebanese women are married to unregistered refugees (being Palestinian or non Palestinian). Due to lack of registration, these children cannot even be treated like other children born of a mother married to a foreigner who holds a nationality (i.e if they are under 15 years old and on their mothers' charge).³⁸ Children born of these marriages become stateless like their fathers.³⁹

6. Recommendations

The gender discrimination embodied in the Lebanese legislation and practice in the context of nationality and residency is a flagrant violation of the principle of equality before the law and the principle of sexual non-discrimination guaranteed in the Lebanese Constitution and obligations under international and national law.

For all the above reasons, Lebanon should immediately:

- eradicate all forms of gender discrimination in the laws and practice particularly with regard to nationality and residency. Lebanon, in the context of the elaboration of the National Plan of Action on Human Rights should bring national legislation into compliance with international treaty obligations
- immediately withdraw the reservations to the CEDAW Convention and ratify its Additional Protocol

³⁵ General Security Office, Ways and methods of giving travel documents and circulation permits to the Palestinian refugees in Lebanon, available at www.surete-generale.gov.lb, accessed on 29/1/2007

³⁶ For example, a female Palestinian refugee legally residing in Lebanon is married to an unregistered Palestinian man whose four children obtained residencies based on school enrollment. However, the husband's application for a residency based on his wife's status was rejected a number of times. (FR141 available on file)

³⁷ For example, a Lebanese woman divorced from an Iraqi refugee has custody of her children but is unable to issue them passports in order to grant them residency, as the issuance of a passport requires intervention from her husband and he is unwilling. If she could give her children the Lebanese nationality, she would not be dependent on her husband's will in order to obtain and give them the proper documentation to at least obtain for them a residency permit in Lebanon. These children, although residing in Lebanon and of a Lebanese woman, are today stateless. (FR on file)

³⁸ General Security Office, Required conditions for the residency, available at www.surete-generale.gov.lb, accessed on 29/1/2007

³⁹ For example, this is the case of a Lebanese woman married to a Palestinian from Gaza who was deported from Lebanon. She has three children who are unregistered with UNRWA or the Lebanese government. These children face the danger of deportation (though not clear where to) and are unable to obtain the nationality of their mother nor a residency permit on grounds of their mother's Lebanese nationality. (FR 244 available on file)

- ensure an effective legislative, policy and institutional framework to ensure protection of refugee women from discrimination

In addition, UN Agencies should include the elimination of gender discrimination in terms of nationality and residency in all their rules and activities including OHCHR, cooperation with the Parliamentary Committee to develop a National Plan of Action on Human Rights (NPAHR).