

**Mandate of the Working Group on the issue of discrimination against women in law and in practice**

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Excellency,

I have the honour to address you in my capacity as Chairperson of the Working Group on the issue of discrimination against women in law and in practice, pursuant to Human Rights Council resolution 15/23.

In this connection, I would like to bring to the attention of your Excellency's Government **concerns relating to the criminalisation of adultery under the Lebanese Penal Code, which seems to contravene international human rights norms and standards as outlined below.**

Adultery is a crime in Lebanon even though the term itself is not defined. Under Article 487 of the Penal Code, a married person who is convicted of adultery can be sentenced to between three months and two years in jail, as can their married partner. However, if the partner is not married, they are subject to a lesser sentence of between one month and one year of jail. Article 488 of the Penal Code provides that a married person will be subject to imprisonment of one month to a year if they publicly take a lover.

It is our firm belief that laws criminalising adultery, such as the Penal Code, are based on and result in discrimination against women. Our Group has noted that the enforcement of such laws leads to discrimination and violence against women in law and in practice and has stressed that while criminal law definitions of adultery may be ostensibly gender neutral and prohibit adultery by both men and women, closer analysis reveals that the criminalisation of adultery is both in concept and practice overwhelmingly directed against women and girls. Criminalisation of adultery hence contravenes article 2 of the Convention on the Elimination of All Forms of Discrimination against Women (ratified by Lebanon on 16 April 1997), in which States parties condemn discrimination against women in all its forms, and agree to pursue, by all appropriate means and without delay, a policy of eliminating discrimination against women. Our expert group considers that the offence of adultery, though it may constitute a matrimonial offence, should not be regarded as a criminal offence punishable by imprisonment.

It is also our view that criminalisation of sexual relations between consenting adults should be regarded as an interference with the privacy of the individuals concerned in violation of article 17 of the International Covenant on Civil and Political Rights (ICCPR) (ratified by Lebanon on 3 November 1972) which provides that no one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation. (See our position paper in this regard available at <http://www.ohchr.org/EN/Issues/Women/WGWomen/Pages/WGWomenIndex.aspx> ).

We therefore call upon your Excellency's Government to comprehensively review the provisions of the Penal Code, and to remove all provisions that discriminate against, or have a discriminatory impact on women, including those regarding adultery.

In addition we would like to express our concerns that the criminalisation of adultery contravenes article 5 of the Convention on the Elimination of All Forms of Discrimination against Women, by reinforcing social and cultural patterns that are based on prejudice and stereotyped roles for men and women. We are concerned that such discriminatory legislation may exacerbate gender-based violence, as women who are accused and/or convicted of adultery tend to be targets of violence and abuse, by members of family, community or law enforcement officers, due to a belief that they deserve to be punished for their moral crimes.

In this regard, we welcome the adoption of Law No. 162 of 2011, repealing article 562 of the Penal Code, which had allowed reduced sentences for crimes committed in the name of so-called honour (for instance in sentencing a man convicted of an honour killing upon discovering one of his female relatives in the act of adultery or extramarital intercourse). However, despite the removal of mitigant of honour crime in the Penal Code, there remain other provisions which provide for lenient sentences for perpetrators of acts of violence. Article 252 states that "Whosoever commits the crime in an outburst of extreme anger resulting from a grave and unlawful action of the victim shall be liable to a lesser penalty," while article 253 sets out the reduced sentences that the courts may apply. While article 253 refers generally to "mitigating circumstances", article 193 provides guidance for a reduced penalty for crimes committed in a state of rage, in particular if the judge established that the motive was "honourable". Per article 193, "the motive is honourable if it is characterised by magnanimity and high-mindedness and if it is not marred by selfishness, personal considerations and the prospect of material gain." For instance, the penalty applicable to a crime can be reduced from capital punishment to life imprisonment if the motive is proven to be "honourable". Although these articles are gender neutral, it is plausible that they be applied in a discriminatory manner in that crimes committed by husbands against their adulterous wives could be considered as constituting "mitigating circumstances" or having "honourable" motives.

In its General recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19 on violence against women, the CEDAW Committee recommends that Member States repeal all legal provisions that discriminate against women, and thereby enshrine, encourage, facilitate, justify or tolerate any form of gender-based violence against them; including in customary, religious and indigenous laws, including legislation that criminalises adultery or any other criminal provisions that affects women disproportionately [CEDAW/C/GC/35, paragraph 31(a)].

In its 2015 Concluding Observations, the Committee also recommended that the State Party remove provisions that discriminate between women and men regarding adultery and amend current legislation to specifically criminalize gender-based violence against women, including crimes committed in the name of so-called honour (CEDAW/C/LBN/CO/4-5).

As it is our responsibility under the mandate provided to us by the Human Rights Council to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide information on the impact of the criminalisation of adultery, including the number of prosecutions for adultery and the number instituted pursuant to a complaint of rape.
2. Please provide information on any measures that your Excellency's Government has taken or intends to take in order to implement the recommendations by UN human rights mechanisms, referred to above, and to bring its legislation into compliance with international human rights law.

The Working Group would appreciate a response within 60 days and remains available for any type of technical advice on legislative reform that your Excellency's Government may require.

We would like to inform you that this communication will be made available to the public on the website page of the mandate of the Working Group and will be included in the periodic communications reports of the Special Procedures to the Human Rights Council. Any response of Your Excellency's Government will also be made public in the same manner.

Please accept, Excellency, the assurances of our highest consideration.

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Chair-Rapporteur of the Working Group on the issue of discrimination against women in law and in practice