ORGANISATION SUISSE D'AIDE AUX RÉFUGIÉS
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Liban : violence domestique et garde des enfants

Renseignement de l'analyse-pays de l'OSAR

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Sommaire

Ce rapport repose sur des renseignements d'expert-e-s et sur les propres recherches de l'Organisation suisse d'aide aux réfugiés (OSAR). Conformément aux standards COI, l'OSAR fonde ses recherches sur des sources accessibles publiquement. Lorsque les informations obtenues dans le temps imparti sont insuffisantes, elle fait appel à des expert-e-s. L'OSAR documente ses sources de manière transparente et traçable, mais peut toutefois décider de les anonymiser, afin de garantir la protection de ses contacts.

1 Introduction

Les questions suivantes sont tirées d'une demande adressée à l'analyse-pays de l'OSAR :

1. Quelles sont les dispositions légales en matière de garde des enfants ? Une famille de confession chiite peut-elle « confisquer » les enfants d'une femme qui a divorcé et l'empêcher de voir ses enfants ?

2. Existe-t-il au Liban des associations d'aide et de soutien aux femmes dans des situations de conflit religieux intrafamiliaux, notamment pour contester la décision de sa famille de revoir ses enfants et de les élever ?

3. Cette femme aurait-elle pu obtenir une protection efficace contre les violences sexuelles de son ex-mari, ou de son père et de ses frères? Ou est-ce que les autorités ferment en général les yeux sur les violences domestiques ou sexuelles et les conflits familiaux/privés ?

L'analyse-pays de l'OSAR observe les développements au Liban depuis plusieurs années.[1] Sur la base de ses propres recherches ainsi que de renseignements transmis par des expert-e-s externes, elle apporte les réponses suivantes aux questions ci-dessus.

2 Divorce et garde des enfants

2.1 Cadre légal

Absence d'un code civil régissant les questions de statut personnel. 15 lois distinctes régissent la vie des femmes libanaises sur les questions de divorce et de garde des enfants, et ceci en fonction de leur confession religieuse. Lois souvent discriminatoires, fondées sur l'idée que l'homme est le chef de famille. Selon un rapport conjoint de *Equality Now*, le *Lebanese Council to Resist Violence against Women* (LECORVAW), *Women Alive* et le *Global Campaign for Equal Nationality Rights* (GCENR), il n'y a pas au Liban de code civil régissant les questions de statut personnel. Au lieu de cela, il existe quinze lois distinctes sur le statut personnel pour les 18 confessions reconnues par l'État. Ces lois régissent la vie des femmes et des filles chrétiennes et musulmanes notamment en termes de mariage, de divorce et de garde des enfants. Les tribunaux et les institutions religieuses déterminent leurs propres lois en matière de statut personnel des femmes. Selon ce rapport, ces lois sont basées sur l'idée que l'homme est le chef de famille. Cela permet de légaliser et protéger par la loi la discrimination envers les femmes. Cette critique a été notamment soulevée par le Comité du Pacte international relatif aux droits civils et politiques, qui en mai 2018, a indiqué sa préoccupation quant au fait que les lois sur le statut personnel fondées sur la religion sont discriminatoires envers les femmes dans des domaines tels que le mariage, le divorce, la garde des enfants et l'héritage (*Equality Now*/LECORVAW/*Women Alive*/GCENR, 10 janvier 2022). Dans un rapport de 2015, Human Rights Watch (HRW) relève

[1] www.osar.ch/publications/rapports-sur-les-pays-dorigine

que cette absence d'un code civil unifié se traduit par des traitements différents pour les citoyen-ne-s libanais-e-s sur les questions relatives au mariage, au divorce et à la garde des enfants (HRW, 19 janvier 2015). Dans son rapport de février 2022, le *Comité pour l'élimination de toutes les formes de discrimination à l'égard des femmes* (CEDAW) note également avec préoccupation l'applicabilité de multiples lois religieuses sur le statut personnel contenant des dispositions discriminatoires sur le mariage, le divorce et la garde des enfants. Il relève également que l'État libanais maintient des réserves à l'égard de certains articles sur l'égalité dans le mariage et les relations familiales, ainsi que sur la *Convention pour l'élimination de toutes les formes de discrimination à l'égard des femmes* et l'arbitrage en cas de différends. En outre, selon le Comité, le Liban n'a pas ratifié le protocole facultatif à la Convention, ni n'y a adhéré. Ce protocole permet notamment aux personnes victimes de violations de la Convention de porter plainte en s'adressant au Comité après avoir épuisé les voies de droit national (CEDAW, 28 février 2022). (CEDAW, 28 février 2022).

C'est l'âge des enfants qui détermine avec qui ils doivent résider, et non pas leur intérêt supérieur. Les pères chiites obtiennent la garde des enfants dès 2 ans pour un garçon, et 7 ans pour une fille. Droits de visite/garde très limités pour la mère. Selon HRW, les décisions judiciaires relatives au droit de garde ne prennent souvent pas en compte l'intérêt supérieur des enfants qui voient leurs droits bafoués. En effet, les différentes lois religieuses stipulent qu'en cas de divorce, c'est l'âge de l'enfant qui détermine avec qui l'enfant doit résider, et non pas son intérêt supérieur (HRW, 19 janvier 2015). Selon *Al-Monitor*, en matière de mariage, divorce et de garde des enfants, les citoyen-ne-s chiites doivent se conformer à la loi de la charia et aux décisions de la cour Jaafari. De nombreuses femmes divorcées doivent se battre pour obtenir la garde des enfants. Certaines femmes finissent en prison pour avoir enfreint les décisions de la cour Jaafari relatives à la garde. Cette cour stipule que les pères obtiennent la garde de leurs fils quand ils ont plus de deux ans, et de leurs filles lorsque celles-ci atteignent l'âge de sept ans. Lorsque cette cour décide qu'un père obtient la garde des enfants, la mère n'a alors le droit de voir ses enfants que 48 heures par semaine, ou moins en fonction des circonstances (*Al-Monitor*, 27 décembre 2017).

2.2 Possibilités de recours et d'assistance légale

Nombreux obstacles pour les femmes qui veulent faire valoir leurs droits. Procédures judiciaires compliquées et longues, frais de justice élevés. Risque élevé pour les femmes « récalcitrantes » de perdre la garde des enfants ou d'être privées de pension alimentaire Pour HRW, les femmes qui tentent d'accéder aux tribunaux religieux pour faire valoir leurs droits font face à de sérieux obstacles procéduraux, y compris des frais élevés et des procès qui se prolongent. Dans les cas de litiges liés au statut personnel, les procédures judiciaires sont souvent compliquées car elles impliquent différentes instances judiciaires – pénales, civiles et religieuses. Les femmes font face à des obstacles juridiques lorsqu'elles mettent fin à un mariage et courent un risque réel de perdre leurs enfants en cas de remariage, ou lorsque la période de garde maternelle arrive à terme. Cette période dépend de l'âge des enfants et varie selon la confession de la femme. Un autre problème concerne la pension alimentaire qui peut être retirée ou réduite si le tribunal religieux estime que la femme est « récalcitrante », c'est-à-dire qu'elle décide de quitter le domicile conjugal et refuse de cohabiter avec son mari ou si elle demande une séparation. Face à ces obstacles, les femmes choisissent souvent de rester dans des relations conjugales abusives ou de ne pas se remarier (HRW, 19 janvier 2015).

Décisions judiciaires concernant la garde des enfants généralement biaisées en faveur des hommes. **Des critères « d'aptitude » différents sont appliqués aux hommes et aux femmes.** HRW a constaté qu'en cas de litige autour de la garde des enfants, pendant ou après la période de garde de la mère, les tribunaux religieux ont parfois décidé en faveur du père en appliquant certains critères aux femmes mais pas aux hommes et également sans prendre en considération l'intérêt supérieur de l'enfant. Les femmes interrogées par HRW ont rapporté qu'elles sont souvent considérées comme des parents inaptes et perdent la garde des enfants sur la base de raisons qui n'ont rien à voir avec leur capacité à s'occuper des enfants. A part dans des cas extrêmes, comme par exemple alcoolisme ou consommation de drogues, le mari n'est presque jamais considéré comme inapte à s'occuper des enfants. La femme, au contraire, pourra se voir reprocher de trop travailler, de dispenser une « éducation religieuse inappropriée », d'appartenir à une confession religieuse différente, de se remarier ou encore d'avoir des comportements sociaux « douteux ». En plus du droit de garde, les tribunaux reconnaissent la tutelle (« guardianship ») des enfants jusqu'à ce qu'ils atteignent l'âge adulte. Ce droit de tutelle qui peut s'appliquer avant et après le mariage est exclusivement accordé au père (HRW, 19 janvier 2015).

Peu ou pas d'assistance juridique et matérielle pour les femmes engagées dans des procédures judiciaires. Pour HRW, les femmes engagées dans des procédures judiciaires pour faire valoir leurs droits ne reçoivent peu ou pas d'assistance juridique et matérielle. Elles ne peuvent pas non plus compter sur l'aide de la Cour de Cassation, la plus haute juridiction civile du système judiciaire libanais, qui n'a qu'un contrôle très limité sur les procédures et les décisions des tribunaux religieux. Les tribunaux musulmans sont par exemple opérationnellement indépendants des institutions étatiques. L'aide des ONG locales est très limitée en raison de manque de moyens (HRW, 19 janvier 2015).

3 Protection contre la violence de genre

3.1 Cadre légal

Adoption en décembre 2020 d'une modification de la loi de 2014 sur la protection des femmes qui criminalise la violence psychologique et économique. Initiative parlementaire pour élargir la définition du viol. En février 2022, le *Comité pour l'élimination de toutes les formes de discrimination à l'égard des femmes* (CEDAW) a salué les initiatives prises par la commission parlementaire des femmes et des enfants, en particulier celles visant à modifier le code pénal pour élargir la définition du viol. En décembre 2020, une modification de la loi n° 293 de 2014 sur la protection des femmes et de tous les membres de la famille contre la violence domestique a été adoptée. Elle inclut notamment une extension de la notion de violence intrafamiliale aux actes commis pendant le mariage et criminalise la violence psychologique et économique. Un autre progrès, selon le Comité, est le regroupement dans une base de données unifiée de toutes les données sur les cas de violence sexiste à l'égard des femmes. Ces données sont ventilées par âge, nationalité et type de relation entre la victime et l'auteur des violences. Le Comité salue également l'adoption de la loi n° 205 de 2020 sur le harcèlement sexuel et la réhabilitation des victimes de harcèlement sexuel. Il note également que les femmes sans ressources financières peuvent bénéficier d'une aide juridique

gratuite. Des avocats fournissent également une aide gratuite dans des centres pour femmes (CEDAW, 28 février 2022).

La loi sur la protection des femmes de 2014 ne protège pas les femmes victimes de viol conjugal. Selon HRW, la loi sur la protection des femmes et des membres de la famille, entrée en vigueur en 2014, établit d'importantes mesures de protection, mais laissent encore les femmes exposées au risque de viol conjugal et à d'autres abus. Cela est notamment dû au fait que cette loi définit le viol d'une manière étroite et limitée qui ne répond pas aux directives de l'ONU sur la protection contre la violence domestique. La définition du viol devrait notamment inclure les actes de violence physique, sexuelle, psychologique et économique. La loi criminalise l'utilisation par un conjoint de menaces ou de violence pour « revendiquer un droit à des rapports sexuels », mais la violation non-consensuelle de l'intégrité physique elle-même n'est pas criminalisée (HRW, 19 janvier 2015).

Les questions régies par les lois sur le statut personnel sont exemptées de la loi sur la protection des femmes. Les tribunaux religieux n'ont pas d'obligation de tenir compte de la condamnation pénale d'un homme violent. En vertu de l'article 22 de la loi sur la protection des femmes, les questions régies par les lois sur le statut personnel sont exemptées de la loi sur la protection des femmes, ce qui a pour effet, selon HRW, de porter atteinte à la sécurité des femmes dans leur foyer. Des maris musulmans peuvent ainsi continuer à discipliner leurs femmes. Ces hommes pourraient être condamnés en vertu du droit pénal, mais les tribunaux religieux n'ont aucune obligation de les condamner ou d'en tenir compte dans leurs décisions sur des questions de statut personnel, comme la garde des enfants (HRW, 19 janvier 2015).

3.2 Capacité de protection de l'État

Préjugés sexistes dans le système judiciaire. Absence d'enquêtes et de poursuites. Les femmes n'ont pas accès à une protection juridique effective. Le *Comité pour l'élimination de toutes les formes de discrimination à l'égard des femmes* (CEDAW) relève qu'il existe des préjugés sexistes dans le système judiciaire et que ceux-ci sont un obstacle à l'accès des femmes à la justice et à des recours efficaces, en particulier dans les cas de violences sexistes. Le Comité note avec inquiétude l'absence d'enquêtes, de poursuites et de collecte de preuves qui tiennent compte des sexo-spécificités. Dans le cas où une femme est victime d'agression ou de viol de la part d'un membre des forces de sécurité, une enquête n'est ouverte qu'à la demande des tribunaux militaires ou civils. Le Comité s'inquiète également du fait que les sanctions prévues par la loi n° 293 ne sont pas appliquées de manière stricte. Il existe également des retards significatifs dans la mise en place de tribunaux spécialisés dans la violence de genre, ainsi que d'un fond spécial pour soutenir les femmes victimes de cette violence (CEDAW, 28 février 2022). L'*International Commission of Jurist* (ICJ) confirme également qu'au Liban les normes patriarcales et les stéréotypes sexistes sont très répandus dans le système judiciaire, les forces de police et la société en général. Les femmes victimes de violence de genre n'ont pas accès à une protection juridique effective, ni à la justice, ni à des recours efficaces et ce en raison d'importantes lacunes législatives et procédurales. Dans ce type d'affaire, les enquêtes et les poursuites pénales sont souvent sapées par des préjugés sexistes et des pratiques discriminatoires. Il manque également une approche professionnelle adaptée dans les processus d'enquête, de poursuite et de jugement. Tout cela entrave l'accès des femmes à la justice. L'ICJ note encore que dans la majorité des affaires de

violence de genre, les auteurs ont bénéficié de « circonstances atténuantes » et donc d'une réduction significative de leurs peines. Souvent, ces réductions de peines sont accordées par les tribunaux sans explications claires (ICJ, octobre 2020).

Une femme qui entame des procédures judiciaires contre un mari violent court un risque élevé de perdre la garde de ses enfants. Violences physiques pas considérées comme une cause de divorce. Dans son rapport de 2015, HRW constate que les femmes qui tentent d'échapper à une relation abusive se retrouvent souvent ballotées entre les tribunaux et les avis religieux et civils dans des longues procédures judiciaires. En l'absence de lois préventives adéquates ou de mécanismes de protection, ces femmes restent vulnérables aux abus pendant ces procédures. La peur de perdre ses enfants décourage bon nombre de femmes de se tourner vers les tribunaux. Les violences physiques infligées à une femme ne sont généralement aux yeux des tribunaux pas une cause suffisante de divorce au Liban. La femme doit prouver que ces violences dépassent l'autorité légale que détient son mari pour la discipliner en vertu de la loi sur le statut personnel pertinente. Par ailleurs, un tribunal religieux n'a pas l'autorité pour condamner un mari abusif ou protéger une femme victime d'abus. HRW souligne également que les décisions de justice relatives à la violence domestique ne sont pas prises en compte dans les décisions relatives au statut personnel. Ainsi, une femme qui porte plainte contre son mari abusif et obtient une protection pourra toujours faire l'objet de poursuites judiciaires pour « récalcitrance » et perdre la garde de ses enfants (HRW, 19 janvier 2015).

Peu de refuges pour femmes. Le CEDAW s'inquiète du fait que les services d'aide aux victimes sont insuffisants, en particulier en ce qui concerne le nombre de refuges pour femmes (CEDAW, 28 février 2022). En effet, selon l'ICJ, il est difficile pour une femme victime de violence de genre qui a fui le foyer de trouver un logement où se réfugier. Les refuges pour ces femmes sont peu nombreux et le nombre de places disponibles est largement insuffisant par rapport aux besoins. Les dispositions qui permettaient à la victime de rester dans son foyer, par exemple en ordonnant le retrait de l'auteur des violences du domicile, ne sont que rarement appliquées (ICJ, octobre 2020).

De sérieuses lacunes dans le système des ordonnances de protection. Champ d'application limité. Viol conjugal pas considéré comme violence domestique. Traitement lent des demandes de protection. Ordonnances de durée trop courte, parfois liées à l'imposition d'une « réconciliation ». Pour l'ICJ, qui se réfère dans son analyse à la loi No 293/2014 avant qu'elle soit amendée en décembre 2020, le système des ordonnances de protection comporte un certain nombre de lacunes. La première est que son champ d'application est limité. Seules les victimes qui entrent dans la définition de la « famille », telle que définie à l'article 2 de la loi No 293/2014, peuvent en principe y avoir recours. Une deuxième lacune tient à la portée limitée de la définition de la violence domestique. Celle-ci exclut des infractions telles que le viol conjugal, le harcèlement sexuel ainsi que d'autres formes d'agression sexuelle. Les femmes qui en sont victimes ne peuvent pas demander une ordonnance de protection. Un autre problème tient à la temporalité des ordonnances de protection. Les demandes d'ordonnance de protection devant un juge des affaires urgentes ou d'autres autorités judiciaires ne sont souvent pas entendues en temps voulu, ce qui limite l'efficacité d'éventuelles mesures. Cela est notamment dû au fait que les juges sont surchargés et ne peuvent pas se concentrer sur ces demandes. En outre, lorsque les ordonnances de protection comportent des injonctions, celles-ci n'entrent en vigueur que dans les 48 heures suivant

leur octroi, une période pendant laquelle la victime est laissée sans protection. Les ordonnances de protection ne sont également que temporaires et leur durée est laissée à la discrétion de l'autorité judiciaire compétente. Cette durée ne dépasse parfois pas plus qu'une semaine, ce qui est évidemment inadéquat face à des violences qui souvent durent depuis des années. Une autre faiblesse des ordonnances de protection tient au fait que celles-ci sont parfois liées à des attentes de « réconciliation » des couples. Dans certains cas, des juges ont décidé de la durée de ces ordonnances en fonction du temps dont le couple aurait besoin pour se réconcilier. Pour l'ICJ, imposer ainsi la réconciliation, par exemple en obligeant la victime à suivre des « thérapies de couple », viole les droits de la victime à la justice et à des recours efficaces. Forcer la femme à se trouver à proximité de son agresseur, peut également entrainer une victimisation secondaire (ICJ, octobre 2020).

Sanctions trop légères pour non-respect des ordonnances de protection. Selon l'ICJ, les ordonnances de protection ne sont appliquées que de manière limitée. L'article 18 de la loi No 293/2014 stipule qu'en cas de violation des conditions imposées par une ordonnance de protection, la sanction peut entrainer trois mois de prison, une amende maximale de deux fois le salaire minimum, ou l'une des deux peines, c'est-à-dire l'emprisonnement ou l'amende. Lorsque la violation implique des violences ou une récidive, la sanction passe à un an d'emprisonnement et une amende maximale de quatre fois le salaire minimum. Pour l'ICJ, ces sanctions ne correspondent pas à la gravité des préjudices pouvant résulter du non-respect des ordonnances et n'ont ainsi pas un effet suffisamment dissuasif. Par ailleurs, sauf exception, les sanctions ne sont que rarement mentionnées dans les ordonnances de protection (ICJ, octobre 2020).

4 Sources:

Al-Monitor, 27 décembre 2017:

> *« […]* ***Human Rights Watch has long decried the unequal treatment of women in Lebanese divorce and custody cases. Stories of divorced mothers who fought for custody of their children abound in Lebanon; some of the women appealed court rulings from the Jaafari court, while others were imprisoned for violating custody rulings. One such famous case from a year ago involved Fatima Hamzeh, who was jailed for refusing to give up custody of her son. In another case, Rita Choucair, the mother of a 5-year-old boy, got a divorce in 2015 and was banned from seeing or even calling him. Choucair can now see her son, but only for three hours a week. The Jaafari court stipulates that fathers get custody of their sons when they are older than 2 and daughters when they are 7.***
>
> ***Choucair told Al-Monitor, "I was beaten, kicked out of the house and insulted by my ex-husband — only because I want to see my son."***
>
> ***She said that preventing her son from seeing her is psychological abuse. When she was a child herself, the Jaafari court ruled that she could not see her mother. Her experience made her decide to violate the law and take her son from his grandmother.***

Dareen Salman, the mother of a 7-year-old boy, said she hasn't seen her son for a year and a half. She was imprisoned last year in Baabda for a month because she kept him in violation of a Jaafari court order granting custody to the father.

"Ever since I got out of prison, I haven't learned a thing about my child. My family had to hand him to his father in order for me to be released from prison. I was given the right to see him 15 days a year, but it has been a year and a half since I last saw him," Salman told Al-Monitor.

There are many similar stories of mothers who have faced such Jaafari court rulings dictated by the Sharia laws of the Shiite community. When fathers are given custody, mothers are only granted the right to see their children 48 hours a week or less depending on circumstances. Shiite citizens in Lebanon have to abide by this law in the absence of a unified law for all Lebanese citizens. Each community in Lebanon has its own rules when it comes to personal status issues.

In 2013, Ibrahim and other women launched the PLW campaign, which is calling for mothers to be granted custody of sons younger than 7 and daughters below the age of 9. According to Ibrahim, the campaign also calls for granting fathers the right to see their children 48 hours a week, as per the fatwa of Shiite cleric Sayyed Mohammad Hussein Fadlallah.

According to the PLW campaign, this fatwa is important as it was issued by a Lebanese Shiite religious authority of significant stature who said mothers should be prioritized in custody cases. Fadlallah cited religious references according to which mothers could be granted custody until their children are 18 years old.

Ibrahim added, "There is also the option of joint custody in the event both parties are eligible. If the parents are capable of raising their child and do not suffer from psychological disorders that could expose their child to harm, one of the parents is granted custody of the children on school days, while the other gets to spend the holidays and summer vacations with them until [the children] are allowed to choose who they want to live with — when boys are 13 and girls are 9."

Sharia Judge Ali Makki said in a September interview with Al-Modon, a local digital newspaper, "The Shiite community cannot change its rules based on tears and complaints, as it derives its decisions from the stories of the [Prophet Muhammad and his family]. Since these stories and the Jaafari jurisprudence say mothers can have custody of their sons younger than 2 years old and of their daughters below the age of 7, [the prevailing] fatwas will not change."

Ibrahim said, "Since its inception, the PLW campaign has achieved two main things: First, it raised awareness of mothers' rights and brought their demands to the attention of concerned people. Second, it created a shock within the Shiite council and got Shiites to defy the unfair rulings issued by their religious authority."

Legal expert Hassan Bazzi told Al-Monitor, "The origin of the problem dates back to the French Mandate, between 1920 and 1943, when the French high commissioner signed an agreement with community leaders in Lebanon granting them the right to organize the affairs of their communities. After independence, the Lebanese law allowed each sect to

organize its own personal status, thus dealing a blow to the principle of equality before the law, which is stipulated by the constitution."

Bazzi added, "The solution for Muslim communities would be to adopt a unified civil law that takes into account the Sharia provisions. Such a law should stipulate a unified legal age below which mothers should be granted custody of their children. In this law, a civil judge would issue rulings related to a mother's custody, among other issues related to marriage and divorce. There should at least be one law for Muslims and one for Christians."

***Druze mothers in Lebanon are granted custody until their sons reach the age of 12 and their daughters turn 14, while Sunni mothers are granted custody of their children until they are 12. Meanwhile, Christian Orthodox mothers are granted custody of their daughters until the age of 15 and of their sons until they reach 14. In the Protestant community, the ages are 12 for boys and 13 for girls. The Catholic Personal Status law does not provide for a specific age but stipulates that mothers can nurse their babies until they are 2 years old pending a spiritual court ruling on the fate of the child**. »* Source: Al-Monitor, Lebanon's mothers see glint of hope in custody ruling, 27 décembre 2017: www.al-monitor.com/originals/2017/12/lebanon-shiite-mothers-children-custody-laws.html.

Equality Now/LECORVAW/Women Alive/GCENR, 10 janvier 2022:

« 25. ***Lebanon does not have a civil code regulating personal status matters. Instead, there are 15 separate personal status laws for 18 sects, governing the lives of women and girls in terms of marriage, custody, alimony, divorce and inheritance discrimination against women and girls in both Christian and Muslims families.*** *[…]*

27. ***Religious courts and institutions determine their own personal status laws, which are built on the notion that men are the head of the family, hence preserving the inferiority of women under the law. This effectively enables discrimination to be legalized and protected by law****.*

30. Additionally, ***in May 2018, in its concluding observations on the third periodic report of Lebanon, the Committee of the International Covenant on Civil and Political Rights remained concerned that religion-based personal status laws discriminate against women in such matters as marriage, pecuniary rights, divorce, child custody and inheritance****. It 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…". »* Source: Equality Now/LECORVAW/Women Alive/Global Campaign for Equal Nationality Rights (GCENR), Information on Lebanon for consideration by the Committee on the Elimination of Discrimination against Women at the 81 Session (07 Feb 2022 - 04 Mar 2022), 10 janvier 2022, p.7-8: https://equalitynow.storage.googleapis.com/wp-content/uploads/2022/01/13111315/Lebanon_-CEDAW-submission-by-Equality-Now_-The-Lebanese-Council-to-Resist-Violence-Against-Women-LECORVAW_-Women-Alive-and-the-Global-Campaign-for-Equal-Nationality-Rights.pdf.

CEDAW, 28 février 2022:

> *« 11.* ***The Committee notes that the National Commission for Lebanese Women (NCLW) is carrying out studies that will pave the way for the inclusion in its civil law of a unified personal status law aimed at ensuring gender equality, and the progress made in the examination of a draft law aimed at recognizing the right of Lebanese women to transmit their nationality to their children. However, the Committee notes with concern that the State party maintains its reservations to articles 9 (2), on equal rights with respect to the nationality of children, 16 (1) (c)–(d) and (f)–(g), on equality in marriage and family relations, and 29 (1) of the Convention and arbitration in the event of a dispute. It also notes that the State party has not ratified or acceded to the Optional Protocol to the Convention****. […]*
>
> *13.* ***The Committee welcomes initiatives taken by the Parliamentary Committee on Women and Children, in particular the proposals and draft laws relating to the amendment of the Penal Code to broaden the definition of rape*** *and the amendment to the Labour Code to ensure the principle of equal pay for work of equal value. It notes with concern, however, that there is no legislation defining and prohibiting all forms of discrimination against women, including direct and indirect discrimination by State and non-State actors, in the public and private spheres, as well as intersecting forms of discrimination. The Committee also notes the absence of a clear timeframe for the review of discriminatory laws and that sex is not included as a prohibited ground of discrimination in articles 9 and 10 of the Constitution. […]*
>
> *Women's access to justice*
>
> *15.* ***The Committee notes that free legal aid is available to women without sufficient means and that free legal assistance is offered by lawyers in specialized centres for marginalized groups of women, including in isolated areas. It notes, however, the absence of court proceedings in which provisions of the Convention have been invoked or directly applied. The Committee notes with concern the lack of gender-sensitive investigations, prosecutions and evidence-gathering procedures, and reports of judicial gender bias, which jeopardize women's access to justice and effective remedies, in particular in cases of sexual and other forms of gender-based violence against women.*** *It is also concerned about reports that women migrant domestic workers face barriers to justice when seeking to report abuses. […]*
>
> *25.* ***The Committee welcomes the amendment to Law No. 293 of 2014 on the protection of women and all family members against domestic violence adopted on 21 December 2020, particularly the extension of the notion of intra-family violence to include acts committed during marital life, and the criminalization of psychological and economic violence. It also notes that complaints about domestic violence are consolidated in a unified database, and data on cases of gender-based violence against women are disaggregated by age, nationality and type of relationship between the victim and the perpetrator. The Committee further welcomes the adoption of Law No. 205 of 2020 on sexual harassment and rehabilitation of victims of sexual harassment. However, the Committee notes with concern:***
>
> *(a)* ***That the sanctions provided for by the new Law No. 293 are not being strictly enforced;***

(b) ***The long delays in establishing specialized gender-based violence courts and a special fund to support women victims of gender-based violence;***

(c) ***The lack of victim support services, including the limited number of adequate shelters in the State party;***

(d) ***The absence in Law No. 205 on sexual harassment and rehabilitation of victims of sexual harassment of key protections, which falls short of international standards;***

(e) ***That cases of assault and rape committed against women by members of the security forces are investigated only at the request of the military or civilian courts, depending on the circumstances of each case****. […]*

41. The Committee welcomes the creation of the Ministry of State for the Economic Empowerment of Women and Youth and the launching of the National Plan for the Economic Empowerment of Women in 2019, as well as the adoption of special measures to enhance women participation in the labour market. It notes, however, that ***women have only limited access to loans and other forms of financial credit, as well as to property and inheritance rights.*** *[…]*

*53. The Committee takes note of the draft laws to ensure equal rights in marriage and family relations and prohibit child marriage in the State party. However****, it notes with concern the applicability of multiple religious personal status laws containing discriminatory provisions on marriage, divorce and custody of children. It is also concerned that the process to regulate civil marriage has been stalled for years and regrets the absence of an optional civil marriage contract and a unified civil personal status code.*** *The Committee is further concerned that child marriage is still not prohibited notes the high number of child marriages within refugee and internally displaced communities. »* Source: Committee on the Elimination of Discrimination against Women (CEDAW), Concluding observations on the sixth periodic report of Lebanon, 28 février 2022, p.4, 6-7, 11, 13: https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/LBN/CEDAW_C_LBN_CO_6_47998_E.docx.

HRW, 19 janvier 2015:

« ***Lebanon does not have a civil code regulating personal status matters. Instead, there are 15 separate personal status laws for the country's different recognized religious communities including twelve Christian, four Muslim, the Druze, and Jewish confessions, which are administered by separate religious courts.***

Religious authorities often promoted this judicial pluralism as being essential to protecting Lebanon's religious diversity. In reality, ***the multiplicity of laws means that Lebanese citizens are treated differently when it comes to key aspects of their lives, including marriage, divorce, and custody of children****. […]*

Across all confessions, women faced legal and other obstacles when terminating unhappy or abusive marriages; limitations on their pecuniary rights; and the risk of losing their children if they remarry or when the so-called maternal custody period (determined by the child's age) ends. Women were also systematically denied adequate spousal support during and after marriage—with religious courts often unfairly denying or reducing

payments, including if a judge found a woman to be "recalcitrant" by leaving the marital home and refusing to cohabit with her husband or filing for severance.

Children also face violations of their rights, most importantly the right to have their best interest considered in all judicial decisions concerning their welfare, including rulings regarding their primary care giver. *However, these violations lie beyond the scope of this report.*

Discrimination against women results not only from laws, but also courts procedures. All of the women whom Human Rights Watch interviewed said numerous procedural obstacles, including high fees, protracted lawsuits, and lack of legal and material assistance during legal proceedings kept them from accessing religious courts and enforcing even their limited rights. Further, while the courts and religious laws should comply with the provisions of the Lebanese Constitution, the Court of Cassation, which is the highest civil court in the Lebanese judicial system, has very limited oversight over religious court proceedings and decisions, resulting in lack of oversight and accountability: Christian courts are administratively and financially independent and Muslim courts, although historically affiliated and funded by the state, are operationally independent of state institutions.

Religious institutions also provide little sustainable and appropriate legal or social support for women involved in court proceedings, a need that local NGOs have been unable to meet due to staff shortages and a dearth of material resources*. In addition,* ***women are often torn between numerous judicial authorities—criminal, civil, and religious— when attempting to resolve personal status-related disputes because they must often petition more than one of these courts to claim their rights.[...]***

Care of Children ("Custody")

Shia, Sunni, and Druze religious laws generally maintain that, in the event of divorce, the child's age, not their best interests, should determine with whom they reside*. In a recent development, Sunni judges can, at their discretion, consider the best interest of the child in determining custody. Similarly, Christian personal status laws also use a child's age as a principle factor in determining custody but also allow judges, at their discretion, to make custody determinations based on the best interest of the child.*

Alongside the concept of custody, religious courts recognize the concept of guardianship, which entails the preservation and upbringing of children and their assets until they reach adulthood. Across religious laws with the exception of the Armenian-Orthodox personal status law, the right of guardianship both during marriage and after is granted to the father who is recognized as the peremptory moral and financial guardian of his children.

This practice fails to adequately uphold the standard set forth by the Convention on the Rights of the Child, which instructs state parties that, in all matters concerning children, "the best interest of the child shall be a primary consideration."

For women legally able to obtain a divorce, concerns about having their children reside with them often make them unable or unwilling to pursue a divorce*.*

Further, in some cases in which women tried to keep their children after the maternal custody period, or when fathers tried to take their children during the maternal custody period, Human Rights Watch's review of court cases found that some religious courts granted the father custody of the children because of certain criteria that were applied to women but not men, and without considering what was in the best interest of the child.

Women who spoke to Human Rights Watch were deemed to be unfit parents and lost their maternal custody rights for a host of reasons other than their inability to care for their child. These reasons include their (different) religious affiliation, lack of "proper religious education" for children, long work hours, getting remarried, or "questionable" social behaviors. A husband's right to maintain primary care of his children is not contingent on his remaining unmarried and he is less likely to be found to be an unfit parent, *except for example in extreme cases when he could not care for the child due to alcoholism or drug addiction.*

Human Rights Watch interviewed women who stayed in abusive marriages, gave up their monetary rights, and did not remarry to maintain primary care of their children in cases where judges did not consider the best interests of the child, or where they evaluated the best interests of a child using criteria that discriminated against women.

The cross-confessional child protection law that the Lebanese parliament adopted in 2002,Law 422 on Protection of Children in Conflict with the Law or at Risk, gives the juvenile civil court legal grounds to intervene if the civil judge considers that the child is in danger. [...]

Inadequate Protection from Domestic Violence

Through its review of case files and interviews with affected women, lawyers, and advocates, ***Human Rights Watch found that due to the multiple statutory provisions and judicial bodies that adjudicate marital disputes, a woman in an abusive relationship typically finds herself tossed between religious and civil courts and opinions and suspended in time, given the long duration of court proceedings—without adequate preventive laws or timely interventions to protect her from harm.***

Discriminatory provisions in personal status laws including in access to divorce and maternal custody and the absence of protective mechanisms, including adequate financial compensation, also affect a woman's willingness to turn to the courts and enter into personal status law disputes even when she is in an abusive relationship. *[...]*

Inadequate Instruments to Protect Women from Domestic Violence

As noted above, ***citing physical abuse is not sufficient cause for divorce in most personal status courts in Lebanon. Under the Shia and Sunni confessions, in cases in which a woman has the right to seek a divorce (see Section "Unequal Divorce Laws" above) she must prove that the abuse exceeds her husband's legal authority to discipline his wife under the relevant personal status law****. In other cases, particularly in Catholic annulment suits,* ***abuse is never in and of itself legal grounds for annulment.***

Although religious courts are authorized to make judgments on marriage and its legal effects, their powers do not extend to convicting a husband of criminal harm in cases of abuse, or of protecting women from abuse.

On April 1, 2014 Lebanon's parliament passed the Law on Protection of Women and Family Members from Domestic Violence, which came into effect in May 2014. While establishing important protection measures and related policing and court reforms, the law still leaves women at risk of marital rape and other abuse. The law defines domestic violence narrowly, and thus does not provide adequate protection from all forms of abuse. *It is defined as "an act, act of omission, or threat of an act committed by any family member against one or more family members... related to one of the crimes stipulated in this law, and that results in killing, harming, or physical, psychological, sexual, or economic harm." The crimes identified in the law relate to forced begging, prostitution, homicide, adultery, and the use of force or threats to obtain sex.*

The narrow definition of domestic violence fails to meet UN guidelines on protection from domestic violence, which calls for a comprehensive definition of domestic violence, including acts of physical, sexual, psychological, and economic violence.

An earlier draft of the law included marital rape as a crime, but the provision was removed under pressure from religious authorities. As a form of compromise, ***the law criminalizes a spouse's use of threats or violence to claim a "marital right to intercourse" but does not criminalize the non-consensual violation of physical integrity itself.***

Advocates also criticized a reference to a "marital right of intercourse," which does not exist under Lebanese criminal law, and fear it could be used to legitimize marital rape. UN human rights experts and agencies have repeatedly called on governments to criminalize marital rape. In 2008, the Committee on the Elimination of Discrimination against Women specifically called on Lebanon to ensure "that marital rape is criminalized and that marriage to the victim does not exempt a sexual offender from punishment." In particular, the committee has continuously stressed "that there should be no assumption in law or in practice that a woman gives her consent because she has not physically resisted the unwanted sexual conduct, regardless of whether the perpetrator threatened to use or used physical violence."

Moreover, article 22 of the new law states that all provisions considered contrary to the new law would be annulled except when in conflict with personal status laws or Law No. 422 on Protection of Children in Conflict with the Law or at Risk. This article is contrary to the recommendation of the UN Handbook for Legislation on Violence against Women. This states that "where there are conflicts between customary and/or religious law and the formal justice system, the matter should be resolved with respect for the human rights of the survivor and in accordance with gender equality standards." ***Exempting matters governed by personal status laws from the domestic violence law undermines women's security in the home.***

For instance, Muslim men continue to have the authority to discipline their wives. They could still be prosecuted under criminal law but the religious courts are under no obligation to sanction him for such behavior. Court rulings over domestic violence moreover would not override or be required to be factored in during personal status court rulings. Thus women could still face court cases for recalcitrance, loss of their pecuniary rights,

and to revoke maternal custody regardless of whether they have received protection or pursued a case for domestic violence under this law.

In a positive development, however, at least two judges implementing the domestic violence law have interpreted the definition of the acts of violence banned by the law broadly. [...]

In a ruling on August 20, 2014, Summary Affairs Judge Antoine Tohme in al-Metn, also found that the use of children for extortion can be a form of psychological violence amounting to domestic violence. *In the case under consideration, a woman who was insulted and humiliated by her husband on a regular basis, left the marital home and subsequently was not able to see her two children, who remained with the father. The woman petitioned the court for maternal custody and spousal and child support. In his ruling, Judge Tohme ordered that both children, who were minors, be turned over to the mother and that the husband pay a monthly $1000 USD allowance. The judge also appointed the NGO KAFA (Enough Violence and Exploitation) to designate someone whom it saw fit to monitor the girls' psychological state, attempt to reconcile the spouses, and present a report to the court.*

In arriving at this result, the judge relied upon a finding that the mother had been subject to physical, psychological, "and other forms of violence" as defined by the domestic violence law. Preventing a parent from seeing her child was considered to amount to psychological violence, an infringement against human dignity, and a violation of the physical and mental safety of the individual*. »* Source: Human Rights Watch (HRW), Unequal and Unprotected - Women's Rights under Lebanese Personal Status Laws, 19 janvier 2015: www.hrw.org/report/2015/01/19/unequal-and-unprotected/womens-rights-under-lebanese-personal-status-laws.

ICJ, octobre 2020:

« Sexual and gender-based violence (SGBV) is "a critical obstacle to achieving substantive equality between women and men as well as to women's enjoyment of human rights and fundamental freedoms." ***In Lebanon, SGBV remains a pervasive human rights challenge and public health scourge blighting the lives of women and girls. Rigidly entrenched patriarchal norms and harmful gender stereotypes about the roles and responsibilities of women and men enjoy considerable currency within the country's judiciary, police force and society at large.***

The 2020 Coronavirus pandemic has merely highlighted the fact that, once again, women and girls remain the perennial victims/survivors of SGBV in the country, with studies finding that its occurrence has surged amid government-imposed confinement measures. ***Legislative and procedural gaps within the domestic framework foster and perpetuate a systematic denial of effective legal protection and access to justice and effective remedies for women victims/survivors of SGBV.*** *As the ICJ has previously concluded,* ***criminal investigations and prosecutions of SGBV offences are frequently undercut by discriminatory practices and bias against women, and a lack of professionalized gender-sensitive approaches to investigation, prosecution and adjudication processes, including evidence-gathering procedures, ultimately thwarting women's access to justice****. [...]*

Research conducted by the United Nations Population Fund and non-governmental organization KAFA (Enough Violence Against Women) points to the widespread incidence of SGBV

against women and girls in Lebanon, particularly with respect to domestic violence. ***While efforts by the Lebanese authorities to combat SGBV – such as the specific enactment of new legislation and the implementation of new policies – are laudable, they have been piecemeal, and major obstacles continue to give rise to access to justice failings, thereby entrenching impunity for SGBV offences****. […]*

*Presently****, Lebanese criminal justice actors responsible for the investigation, prosecution and adjudication of SGBV offences continue to be guided by inadequate laws and policies, which ultimately fail to sufficiently address the complexities and multiple facets of the SGBV phenomenon****. […]*

In addition to an inadequate legal framework, however, the ICJ has concluded that attitudes rooted in patriarchy and harmful gender stereotypes which tend to trivialize, justify or deny SGBV, in addition to false narratives about victims' backgrounds and behaviours, bedevil all phases of the criminal justice process in Lebanon*. With respect to this, one key conclusion of the July 2019 Report was that criminal justice actors should be apprised about these discriminatory attitudes, and about the disproportionate effect and harmful consequences they have on women. […]*

The ***protection afforded by virtue of Law No. 293/2014*** *is a positive step in addressing SGBV and is undoubtedly of tangible benefit to victims/survivors at risk. However,* ***there are flaws within this newfound system of protection.*** *The ICJ has identified the* ***following seven concerns with respect to the protection order system.***

Limited scope of application
The protection order mechanism is limited in scope and, as a result, only victims/survivors of domestic violence, who fall within the meaning of "family" in article 2 of Law No. 293/2014, may have recourse to protection orders. Given the limited definition upon which the mechanism rests, some SGBV victims/survivors who face an ongoing risk of violence may be precluded from qualifying for protection under this system. *Limiting such protection to particular categories of victims/survivors is discriminatory and constitutes an impediment to the right of access to justice and effective remedies for victims/survivors of SGBV and those at risk of SGBV. Under international law, it is incumbent upon the State to ensure that the justice system be capable of providing protection to women who are at risk of becoming victims/survivors of SGBV, as well as those against whom SGBV acts have been inflicted, without distinction. Therefore, the accessibility of protection orders should not be confined exclusively to instances of domestic violence, but should be made available to all victims/survivors – and those who are at risk – of SGBV, irrespective of their relationship to the perpetrator.*

Despite Law No. 293/2014's limited scope of application, the ICJ has seen evidence that Judges for Urgent Matters have issued protection orders to domestic violence victims/survivors who, while not strictly falling within the restricted article 2 definition of "family," were nonetheless found to be entitled to protection. *It must be noted however, that on the basis of the limited number of protection orders to which the ICJ had access, it is not possible to ascertain how frequently judicial authorities apply an expansive understanding of the definition of "family" to the benefit of victims/survivors. […]*

Limited scope of definition

Even where acts of SGBV are perpetrated by a family member, the definition of domestic violence adopted by Law No. 293/2014 applies only to acts that disclose the commission of offences under article 3, which, as noted earlier (see section 1.2.2.), is overly restrictive, since it omits crimes that constitute SGBV, such as marital rape, other forms of sexual assault and sexual harassment. *Accordingly,* ***victims/survivors of marital rape and other acts of SGBV overlooked by the law cannot make an application for a protection order,*** *thereby flouting Lebanon's obligation under international human rights law to protect women against all forms of harm and discrimination.*

Courts determining protection order applications should not focus exclusively on the issue of direct and immediate threats to the life, health and physical integrity of the victim/survivor to the exclusion of other forms of violence, such as emotional and psychological suffering, as broader interpretations of domestic violence would enable extending protection to those victims/survivors who suffer non-physical forms of harm. The decision below is an illustration of this more enlightened and comprehensive approach, demonstrating that ***Judges for Urgent Matters have, on occasion, premised their decisions on expansive interpretations of SGBV, referring explicitly to "physical, psychological and economic violence," thus adopting an approach that is much more consistent with international law than the letter of domestic law.***

It must be noted, however, that more comprehensive and progressive interpretations and understandings of SGBV, such as the one presented here, will only protect the victim/survivor in the case in which they arise, as protection order decisions have no value as judicial precedents.

Temporal limitations
States are duty-bound to guarantee that applications for protection orders "are heard in a timely and impartial manner." ***Applying for protection orders before Judges for Urgent Matters and other judicial authorities can prove inefficient, as they may not be able to hear the application in a timely fashion.*** *Indeed, the ICJ has already observed that, Judges for Urgent Matters have other responsibilities and have become overwhelmed with a large caseload. This is likely owing to the fact that Judges for Urgent Matters are attached to Civil Courts, as opposed to gender specialized units within Lebanon's criminal justice system.* ***Their wide-ranging jurisdiction and purview over civil law matters, in turn, limits their ability to focus their attention on protection order applications.*** *In SGBV cases delays in granting such orders may have dire consequences. […]*

In addition, ***when protection orders feature injunctions, they do not come into effect instantaneously, but within 48 hours from being granted, a period of time during which the victim/survivor is unprotected and potentially at an even greater risk of violence. Furthermore, protection orders issued under Law No. 293/2014 are temporary, time-bound measures and their duration, which varies greatly in practice, relies solely on the discretion of the relevant judicial authority granting them. Some protection orders are granted for a period as short as one week, which is certainly utterly inadequate when the violence, in many cases, has been ongoing for years****. A protection system that staunchly promotes the safety of victim/survivors of SGBV, according to the UN Handbook for Legislation on Violence against Women, "should grant courts the authority to issue long-term, final or post-hearing orders after notice…"*

Reconciliation

***The ICJ is particularly concerned about certain rulings on protection order applications where some Judges for Urgent Matters decided the duration of the protection order based on the time they considered the couple would need to either reconcile or divorce**. **Judges foisting "reconciliation" on victims/survivors of SGBV with their abusive spouse is of grave concern, violating the rights of victim/survivors to justice and effective remedies**. Judges must approach the question of reconciliation with great caution, and only when it is raised by the victim/ survivor of her own free will. [...]*

While the Court clearly recognized the seriousness of the situation – as evidenced by the numerous measures it ordered to restrain the perpetrator – its decision is also an example of a judge foisting reconciliation on a survivor of SGBV despite the fact that she had not requested it.

*Protection orders are a form of remedy predicated on the notion of empowering victims/survivors. **By forcing the victim/survivor to undergo "couples therapy," as a means toward reconciliation, the Court minimized and diminished the violence to which the victim/survivor was subjected and deprived her of her autonomy and ability to make a decision about her marriage to a violent and abusive person, and specifically whether she wanted her marriage to continue or whether she would have preferred to seek a divorce**. Additionally, **compelling the victim/ survivor to undergo couples therapy, where she would be in close proximity to her abuser, puts her at risk of secondary victimization.** States are duty-bound to ensure that protection orders do not result in the repetition of victimization. [...]*

Enforcement limitations
The CEDAW Committee has called on States to ensure that protection or restraining orders are accompanied by adequate sanctions for non-compliance. Similarly, the African Commission on Human and Peoples' Rights (AComHPR) has recommended that States take legislative and other measures to address the breaching of protection orders in a manner that is "effective, deterrent and proportionate."

Article 18 of Law No. 293/2014 stipulates that the penalties for violating the conditions imposed by a protection order include up to three months' imprisonment, a maximum fine of twice the minimum wage, or one of either penalty, that is, imprisonment or a fine. Where the violation involves violence or recidivism, the penalty increases to one year of imprisonment and a maximum fine of four times the minimum wage.

***The July 2019 Report concluded, "the consequences of failing to comply with a protection order are minimal in comparison to the harm that may be inflicted." Indeed, the penalties for noncompliance are not commensurate to the seriousness of the types of harm that may arise as a result of non-compliance with protection orders**. Penalties of a more severe nature could have the effect of deterring perpetrators from committing breaches of the protection order in the first place.*

On the basis of its analysis of 26 protection orders in the July 2019 Report, the ICJ expressed concern that, "with exception, penalties for non-compliance are rarely mentioned in protection orders." This is consistent with the examination of the additional 24 protection orders undertaken by the ICJ for the present purposes, where only a very

small number of protection orders explicitly reference the implications of, and applicable sanctions for, failing to comply with protection orders. *Therefore, when issuing protection orders, judicial authorities must, without exception, explicitly mention the consequences of non-compliance, including the imposition of criminal sanctions in serious cases, which, to reiterate, may serve as a preventative measure.*

Shelters

For a domestic violence victim/survivor who has sustained physical and/or psychological injuries and who has chosen to flee the marital home and seek refuge, securing accommodation can prove extremely difficult. ***Shelters that specifically cater to victims/survivors in Lebanon are few and far between, and the number of places available within such shelters is woefully inadequate when compared with the number of victims/survivors who seek to escape violence in the family home.***

While legal provisions that favour and safeguard the victim survivor's continued occupancy of the home exist, they are rarely enforced. ***The ICJ has observed that it is customary practice for judicial authorities to keep alternative housing arrangements made by subjects of domestic violence intact, as opposed to ordering the perpetrator's removal from the family dwelling****. In view of the shelter shortage, it is advisable for judicial authorities to model protection orders in a way that seeks to ensure the ongoing residence of victims/survivors at their home – or their return to it – with access to all their possessions, restraining the perpetrator accordingly. [...]*

A number of both immediate and long-term psychological health impairments can manifest in victims/survivors of SGBV, including rape trauma syndrome, post-traumatic stress disorder, depression, social phobias and suicidal behaviour. Psychological injuries can be much more insidious and subtle and thus difficult to detect, in particular because they do not necessarily emerge immediately. Nevertheless, in the course of collecting and documenting evidence of SGBV-related offences, efforts should be made so as to ensure psychological problems are not overlooked, but rather, given consideration equal to that of physical injuries. Criminal justice actors must assist and support traumatized victims/survivors and make appropriate referrals to specialized service providers for rehabilitation.[...]

The Criminal Code provides that if there are "extenuating grounds in a case," the Court has discretionary authority to reduce the penalty imposed on the offender*. These penalty reductions include, inter alia, replacing the death penalty with hard labour for life or fixed-term hard labour from seven to 20 years; hard labour for life with a fixed-term hard labour for not less than five years; and life imprisonment with fixed-term imprisonment for not less than five years****. After examining a number of judicial decisions, the ICJ is alarmed that in the vast majority of SGBV cases analyzed, convicted offenders appear to have benefitted from a considerable reduction in their sentence following sentencing Courts concluding that there were circumstances mitigating the seriousness of their offending, with either little, or no explicit explanation as to why the Court saw fit to impose the reduced sentence****. »*
Source: International Commission of Jurists (ICJ), Accountability for Sexual and Gender-Based Violence in Lebanon, octobre 2020, p.4, 10-11, 37-42, 52, 59: www.icj.org/wp-content/uploads/2020/10/Lebanon-GBV-Guidance-Publications-Reports-Thematic-report-2020-ENG.pdf.

The961, 27 juin 2021:

« Depression, anxiety, overthinking, hopelessness, and fear are rampant in today's Lebanese society. Even something as simple as watching the news has become a nightmare for the average citizen.

Unfortunately, all this decline in the overall mental health of society has been accompanied by a surge in clinical therapy prices.

One therapy session that used to cost 70,000 LBP now costs 300,000 LBP after it reached 150,000 LBP in 2020. Attending two therapy sessions would cost you almost as much as the minimum wage of 675,000 LBP.

This staggering price shows that therapy and seeking professional mental help have become a privilege only the rich elite can acquire. Those suffering the most from the catastrophic effects of this crisis are left alone to fight their demons and overcome their disorders and illnesses.

The inability to afford a helping hand has had very alarming consequences. Suicide rates have increased exponentially, especially among the youth, due to mental illnesses left untreated. We constantly hear of new people ending their life after having had struggled for a long time with no one to assist them.

These people are not just numbers. Each one of them was a human being with infinite goals, ambitions, and dreams of changing the world. [...]

A number of NGOs are working day and night to offer emotional and mental support at no charge to those struggling. They believe that financial problems should never stop anyone from seeking help.

Embrace, a leading NGO that seeks to provide help to anyone affected, has a lifeline operation day and night with a team of trained volunteers ready to support anyone who calls. » Source: The961, Therapy Prices Quadrupled In Lebanon Amidst A Rising Mental Health Crisis, 27 juin 2021: www.the961.com/therapy-prices-quadrupled-amidst-rising-suicide-rates/.