

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

REFERENCE: OL
LBN 1/2014:

27 November 2014

Excellency,

I have the honour to address you in my capacity as Chair-Rapporteur of the Working Group on the issue of discrimination against women in law and in practice pursuant to Human Rights Council resolution 23/7.

In this connection, the Working Group would like to draw again the attention of your Excellency's Government to information received regarding the persistence of nationality law that confers unequal rights to women and men regarding the possibility of passing their nationality to their children and spouses.

This is in follow up of its communication LBN 1/2012 where concerns were raised on the draft law issued by the Cabinet at that time regarding the reinstatement of Lebanese nationality solely to descendants of Lebanese fathers and grandfathers. The Working Group takes note of the response of your Excellency's Government N. 3/1291 which explained that this draft law was so conceived so as not to contravene the provision of the Nationality Act, Decree N. 15/25 of 1925. The Working Group also appreciates the transmittal by your Excellency's Government of the note from the National Commission of Lebanese Women which acknowledged that the Nationality Act evidently discriminates against women by denying them the right to pass on their Lebanese nationality to their children or their foreign spouses and informed that an amendment to this Act was being finalized for submission to the Government.

According to information the Working Group continued receiving:

No progress has been recorded yet to amend the Nationality Act to bring it in compliance with international human rights law.

In 2012, the Ministry of Interior proposed an amendment to the Nationality Act stipulating that a Lebanese woman married to a non Lebanese man would be able to pass her nationality to her children. The draft was not considered by the Parliament.

On 13 May 2014, four parliamentary committees, namely the Administration and Justice Committee, the Budget and Finance Committee, the Interior and Defence Committee and the Foreign Affairs Committee discussed the draft law issued by the Lebanese Cabinet regarding the reinstatement of Lebanese nationality solely to descendants of Lebanese fathers and grandfathers. However, the meeting closed before discussing the draft law due to a lack of quorum.

While recognizing the temporary measures adopted pursuant to Regulation 3186 of 31/05/2010 such as providing residency permits to the husband and children of Lebanese women for a period of three years subject to the discretion of the general security, the Working Group remains very concerned at the persistence of legislation which discriminates against women in nationality matters in contravention with international human rights law.

In connection with the above alleged facts and concerns, please refer to the Reference to International Law Annex attached to this letter which cites international human rights instruments and standards relevant to these observations.

The Working Group would also like to draw to the attention of your Excellency's Government the existence of wide spread good practices by States in your region which, in recent years, have repealed legislative provisions which discriminate against women in the matter of nationality.

In order to clarify the measures being taken by your Excellency's Government to repeal the discriminatory legislative provisions on nationality, the Working Group would be grateful if you could address the following matters:

1. Please provide any additional information on the current status of the legislative reform with regard to the right of women to pass their nationality to the children and foreign spouses on an equal footing with men;
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 in the annex, and to bring its legislation into compliance with international human rights law, including the lifting of reservations to the International Convention on the Elimination of All Forms of Discrimination against Women.

We would appreciate receiving a response within 60 days.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

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

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

Annex
Reference to international human rights law

Without implying any conclusion to what is illustrated in this letter, it is necessary to recall for your Excellency's Government its obligations under the Convention on the Elimination of All Form of Discrimination against Women (CEDAW), ratified by Lebanon on 16 April 1997. Article 2 of (CEDAW) places States parties under an obligation to respect, protect and fulfill the right to non-discrimination of women and to ensure the development and advancement of women in order to improve their position and implement their right of de jure and de facto equality with men. States parties shall ensure that there is neither direct, nor indirect discrimination against women. Direct discrimination against women constitutes different treatment explicitly based on grounds of sex and gender differences. Furthermore, article 9 of the CEDAW requires that women have the same rights as men to acquire, retain or change their nationality and the nationality of their children.

In its 2008 concluding observations on Lebanon (CEDAW/C/LBN/CO/3), the Committee on the Elimination of Discrimination against Women urged the State party to recognize the negative impact of its nationality law in force, Decree No 15 on Lebanese Nationality of 1925, last amended 1960, on Lebanese women married to foreigners and on the children of those women and, accordingly, revise this law and remove its reservation to article 9, paragraph 2.

In addition, the obligations of your Excellency's Government under the International Covenant on Civil and Political Rights (ICCPR), which was acceded to by the State on 3 November 1972, are also pertinent. In particular: article 3 which requires States parties to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the Covenant; article 26 of the ICCPR which notes that all persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

The recommendation, made in the context of the Universal Periodic Review, which called for the amendment of the law on nationality in order to ensure that all Lebanese women, regardless of the nationality of their husband, can pass on their citizenship to their children and husbands, should also be recalled here.