

Prohibition of slavery and trafficking

*Following up on commitments of Lebanon's 2015 Universal
Periodic Review*

February 2019

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Acknowledgement

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Disclaimer

While the team made all efforts possible to cross-check information and reproduce facts and events accurately, this does not overrule the possibility of inaccuracies or oversights, for which ALEF hereby expresses its regrets.

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Executive Summary

Lebanon is a destination country for internationally trafficked persons, primarily women. Women from different countries of origin travel to Lebanon, in the belief that they will work as domestic workers and have reportedly been forced into domestic servitude and sexual exploitation.

Although Lebanon has supported, and hence committed to all UPR recommendations to combat human trafficking, much of the State's strategies and approaches towards this issue lack a rights-based and protection-centred approach. In response to these shortcomings, this paper presents the results of a monitoring report that rates key duty bearers on their progress between 2015 and 2018 in achieving recommendations from Lebanon's 2015 UPR to *Identify, protect and support victims of trafficking and forced labour*, as well as to *pursue and enhance efforts to combat trafficking*¹. The paper uses a standard grading framework to assess key indicators that measure the extent to which individual stakeholders comply with UPR recommendations.

Despite significant progress in combating impunity of perpetrators, the judiciary has failed to employ a victims-centred approach in providing adequate compensation and accountability to victims. This report shows that of the 34 cases of trafficking in persons at the Criminal Court of Beirut between 2016 and 2017, none of the victims concerned have received compensation.

Significant progress has taken place on the policy and capacity-building elements for the security agencies that are in most frequent contact with victims of trafficking. Although these efforts are a substantial positive step, there remain gaps in providing a comprehensive protection framework for victims through referrals, guaranteeing their safety following the identification of their case, and compiling data on trafficking cases.

Although there are legal protections for victims of trafficking in national legislation, structural mechanisms that require legislative action by the parliament to ensure adequate protection remain lacking. No notable progress has been made on behalf of the parliament since the 2015 UPR.

¹ A/HRC/31/5/Add.1 - Para. 132

Methodology

The report is relevant to UPR recommendations under “Right or area: 12.7. Prohibition of slavery, trafficking” (see Annex A) of the Thematic list of recommendations for the second cycle of Lebanon’s UPR.

Based on each recommendation, ALEF mapped the relevant stakeholders that enjoy decision-making powers to create change in this thematic area. Subsequently, ALEF mapped relevant progress that had taken place between the date of issuing of the recommendations in 2015 until the end of 2018. Focusing on this progress allowed us to map the apparent willingness and ability of decision makers to comply with any given recommendation.

The report divides the types of action called for in the recommendations into three different categories: structural progress, procedural progress, and outcomes.

Structural progress: Reflects the ratification and adoption of legal instruments and the existence of basic institutional mechanisms deemed necessary for the promotion and protection of human rights.

Procedural progress: Measures duty bearers’ ongoing efforts to transform their human rights commitments into the desired results. This requires looking into policy, including public programmes for development and governance, budget allocations and specific regulatory or redress interventions, that the State is willing to take to give effect to its human rights commitments.

Outcome progress: Captures individual and collective attainments that reflect the state of enjoyment of human rights in a given context. It consolidates over time the impact of various underlying processes.

For the purposes of this policy paper, the indicators are interpreted to assess progress or regress of duty-bearers' performance, rather than the broader human rights situation in the country.² This approach ensures that each duty bearer is assessed independently, based on their institution's mandated responsibilities towards the prohibition of trafficking, and their individual level of effort on protecting the rights of victims. Duty-bearers are subsequently given recommendations based on factors that are only attributable and relevant to their direct sphere of control and scope of work. ALEF recognizes that upholding human rights norms requires a concerted effort from all duty-bearers, and that any action taken by individual actors alone would be insufficient to provide adequate human rights protection. The aim of this report is not to undermine the need for collaborative efforts through compartmentalizing responsibilities, but rather to present clear and targeted steps that duty bearers can work on to show their commitment to the protection of victims of human trafficking within a human rights framework.

Based on the structural, procedural, and outcome indicators, ALEF assesses the status of each duty-bearer in a systematic, evidence-based manner. This evidence has been obtained through a thorough desk review, complemented by interviews with the duty-bearers themselves. This approach helps to cross-examine and strengthen the empirical justification for each duty-bearer's status, to ensure an appropriate quality and quantity of supporting evidence is provided. The statuses are given as follows:

Green: Significant efforts have been made to improve or maintain the full respect of MDWs rights.

Yellow: Progress has been made towards achieving better respect of MDWs rights, but there remain protection gaps that leave room for improvement.

Amber: Efforts towards improving the human rights situation of MDW are inadequate, and gaps to the protection of their rights remained unaddressed.

Red: Policies and practices around MDWs have worsened, and actively restrict their enjoyment of rights.

² For example, indicators showing an increase in human trafficking cases responded to adequately by judicial authorities, are interpreted to signify the continued or improved capacity of relevant actors to receive and adjudicate such cases, rather than an increase in incidences of human trafficking.



UPR Recommendation 132.143: “Identify, protect and support victims of trafficking and forced labour”

As of 2011, Lebanon specifically prohibits human trafficking (Law No. 164 of August 24, 2011, Article 586(8)). The anti-trafficking law has not stopped the imprisonment and deportation of victims of human trafficking without providing them with adequate protection, and the enforcement of this law remains woefully inadequate as applied to victims: The Legal Agenda presented a study which found that of the 34 cases of trafficking in persons at the Criminal Court of Beirut between 2016 and 2017, none of the victims concerned have received compensation,³ especially in the absence of a national trust fund that provides help for victims of trafficking.

This research was unable to obtain information on the number of human trafficking victims arrested, adjudicated, convicted, and serving sentences in the absence of national judicial records which make this particular distinction. The passage of the 2011 law specifically designed to combat human trafficking has raised investigators’ awareness of this issue broadly. However, enforcement remains inadequate to address the forms of trafficking experienced by migrant domestic workers MDWs. Since most victims are also foreign, they are often detained at the Directorate General for General Security (DGGs) prisons, whose records are not made available to the Ministry of Justice (MoJ).

ALEF Recommendations:

- Extend the computerized system of Prison Records to all prisons and detention centres in the country including DGGs prisons.
- Computerize the judicial system, court decisions and sentences.
- Mainstream a more comprehensive understanding of human trafficking which acknowledges the different levels of risks that various populations may be prone to, and treats them accordingly.

UPR Recommendation 132.146: “Pursue and enhance efforts to combat human trafficking as well as raising awareness as to the threat posed by this scourge and protect its victims”

³ Ismail, Zaynab, “The Trafficking in Persons Law does not preclude exploitation”, August 2018, <https://al-akhbar.com/Lebanon/255316/%D9%82%D8%A7%D9%86%D9%88%D9%86-%D8%A7%D9%84%D8%A7%D8%AA%D8%AC%D8%A7%D8%B1-%D8%A8%D8%A7%D9%84%D8%A8%D8%B4%D8%B1-%D9%84%D8%A7-%D9%8A%D9%85%D9%86%D8%B9-%D8%A7%D9%84%D8%A7%D8%B3%D8%AA%D8%BA%D9%84%D8%A7>

In 2015, 30 traffickers were convicted. Out of 93 suspected traffickers investigated by the MoJ, 71 were charged and prosecuted, 33 offenders referred to courts for trial, and courts convicted 4 cases of trafficking.⁴ In 2016, 26 suspected traffickers were referred to the judiciary by the ISF. Out of 98 alleged traffickers referred to investigative judges by the public prosecutors' office for further investigation, 71 individuals were charged and prosecuted, and 33 were convicted.⁵ In 2017, 39 suspected traffickers were referred to the judiciary, and 172 suspected traffickers were charged and prosecuted.⁶ As of October 2018, there are 19 persons in Lebanese prisons either serving sentences or in pre-trial detention on human trafficking charges.⁷

This shows a consistent progression in the number of perpetrators of trafficking arrested, adjudicated, convicted, and serving sentences, and an active pursuit by the judiciary to investigate and hold traffickers accountable.

ALEF Recommendations:

- Continue to actively enhance efforts to hold perpetrators of human trafficking accountable in line with international human rights standards.

Grade: Amber

Despite significant progress in combating impunity of perpetrators, the judiciary has failed to employ a victims-centred approach in providing adequate compensation and accountability to victims.

4 US Department of State, "2016 Trafficking in Persons Report", June 2016, <https://www.state.gov/documents/organization/258880.pdf>

5 US Department of State, "2017 Trafficking in Persons Report", June 2017, <https://www.state.gov/documents/organization/271343.pdf>

6 US Department of State, "2018 Trafficking in Persons Report", June 2018, <https://www.state.gov/documents/organization/282802.pdf>

7 Ministry of Justice Directorate of Prisons



UPR Recommendation 132.143: “Identify, protect and support victims of trafficking and forced labour”

Although the Government did not formally adopt draft procedures for the identification and referral of victims to NGO services, in practice, officials continued to identify and refer trafficking victims to care on an ad hoc basis⁸

During 2017, the ISF adopted a policy to route all cases involving potential trafficking victims through its Human Rights Unit, where officers monitored victims to ensure they were properly identified and cared for per ISF guidelines. The ISF’s Anti-Human Trafficking and Morals Protection Bureau has prioritized training ISF staff on how to detect human trafficking.⁹ As of 2018, at least 108 training sessions were given to the 37 law enforcement agents at the Bureau on the following special investigations of migrants; protection of persons at risk; combating sex trafficking; security and health care for vulnerable persons; methods of investigating victims of human trafficking; managing cases of sexual violence.

Although DGGS does not have specialized training programs on combating trafficking, they use their Code of Conduct (CoC) as a main reference to carry out weekly awareness sessions on the CoC, which includes human rights and supposedly reflects anti- trafficking measures.

Anti-trafficking efforts have focused almost exclusively on combating sex trafficking, with less attention paid to other forms of trafficking and labour exploitation. Between 2015 and 2017, only two cases of exploitation of domestic workers were reported by the Anti-Human Trafficking and Morals Protection Bureau. No prosecutions were reported related to these cases.¹⁰

In 2015, 34 trafficking victims were assisted by an NGO-run safe-house individually, and 4 victims were referred by the Internal Security Forces (ISF) to another NGO.¹¹ In 2016, 30 to 45 women and child sex-trafficking victims were referred to NGOs for protection by the ISF. 46 victims of sexual exploitation and child trafficking were referred to NGO-run shelters, and 226 trafficking victims assisted by an NGO-run safe-house individually.¹² In 2017, 55 victims of sex trafficking and child trafficking were referred to NGO-run shelters by the ISF, 56 victim referrals were received by NGOs from the ISF and DGGS, and 218 trafficking victims assisted by an NGO-run safe-house

8 US Department of State, “2018 Trafficking in Persons Report”, June 2018, <https://www.state.gov/documents/organization/282802.pdf>

9 Ibid.

10 Ghida Frangieh, “Human Trafficking Crimes Before the Court: In the Shadow of Prosecution,” Legal Agenda, 18 Sept., 2018 <http://legal-agenda.com/en/article.php?id=4828>.

11 US Department of State, “2016 Trafficking in Persons Report”, June 2016, <https://www.state.gov/documents/organization/258880.pdf>

12 US Department of State, “2017 Trafficking in Persons Report”, June 2017, <https://www.state.gov/documents/organization/271343.pdf>

individually.¹³ These figures demonstrate a significant progression in the identification and referral of victims of trafficking to protection services.

ALEF Recommendations:

- Ensure the formal introduction of human rights relevant to MDWs and Trafficking in the training of ISF & DGGs personnel, together with a clear outcome assessment tool, and a continuing formation system.
- Continue to investigate all forms of human trafficking, while recognizing other forms such as trafficking for labour exploitation, in addition to sexual exploitation.

UPR Recommendation 132.146: “Pursue and enhance efforts to combat human trafficking as well as raising awareness as to the threat posed by this scourge and protect its victims”

In 2016, 16 perpetrators involved in a sex-trafficking ring were arrested, and 26 suspected traffickers were referred to the judiciary by the ISF. In 2017, ISF issued 17 arrest warrants. However, because archives are controlled independently at each police branch, security agencies do not produce or release combined national data on victim protection, including instances of threatened or actual violence against victims. In addition, protection mechanisms and frameworks at police stations are often insufficient to ensure the safety of victims, due to the inconsistent implementation of protection measures among police stations. Victims of sex-trafficking in particular are at risk of falling back into this cycle of violence and exploitation as a result, especially in cases where trafficking perpetrators themselves are not directly held accountable, and when no adequate measures are put in place to protect victims.

ALEF Recommendations:

- Centralize data from police branches and make it available for studies and policy making purposes
- Establish a standing monitoring and referral mechanism to analyse the data from police branches, receive complaints about anti-trafficking measures and issue public reports about human trafficking.
- Establish a standing cooperation procedure with relevant ministries (MoSA - MoH - MoJ - MoL - etc...) and NGOs networks to successfully refer, address and follow up on cases of Trafficking.

Grade: Yellow

Significant progress has taken place on the policy and capacity- building elements for the security agencies that are in most frequent contact with victim of trafficking. Although these efforts are a substantial positive step, there remain gaps in providing a comprehensive protection framework for victims through referrals, guaranteeing their safety following the identification of their case, and compiling data on trafficking cases.

¹³ US Department of State, “2018 Trafficking in Persons Report”, June 2018, <https://www.state.gov/documents/organization/282802.pdf>



UPR Recommendation 132.143: “Identify, protect and support victims of trafficking and forced labour”, & UPR Recommendation 132.146: “Pursue and enhance efforts to combat human trafficking as well as raising awareness as to the threat posed by this scourge and protect its victims”

Lebanon has ratified the United Nations Convention against Transnational Organized Crime and its Protocols to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children, and Convention against the Smuggling of Migrants by Land, Sea, and Air.¹⁴

In national legislation, law No. 164 Punishment for the Crime of Trafficking in Persons adopted on 2011-09-01¹⁵, criminalized sex and labour trafficking, prescribed penalties of five to 15 years imprisonment, and prohibits all forms of human trafficking. The government did not adopt the draft national anti-trafficking action plan or an independent oversight body with a specific mandate to fight human trafficking, and implementation decrees for the relevant law are still pending cabinet approval. Law 164 falls short of basic protection standards particularly because and the Lebanese government has not yet established a referral system or a trust fund for the rehabilitation and compensation of victims of trafficking.¹⁶

ALEF Recommendations:

- Adopt the national anti-trafficking action plan including the establishment of an independent oversight body for human trafficking.
- Establish a trust fund for compensation and recovery of victims of trafficking

Grade: Amber

Although there are legal protections for victims of trafficking in national legislation, structural mechanisms that require legislative action to ensure adequate protection remain lacking. No notable progress has been made since the 2015 UPR regarding this issue.

¹⁴ United Nations Treaty Center, https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=XVIII-12&chapter=18&lang=en, https://treaties.un.org/pages/viewdetails.aspx?src=ind&mtdsg_no=xviii-12-a&chapter=18&lang=en, https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=XVIII-12-b&chapter=18&lang=en

¹⁵ International Labour Organization, <http://ilo.org/dyn/natlex/docs/ELECTRONIC/89807/103253/F1878916208/LBN-2011-L-89807%20in%20english.pdf>

¹⁶ US Department of State, “2018 Trafficking in Persons Report”, June 2018, <https://www.state.gov/documents/organization/258880.pdf>

Annex A:

UPR of Lebanon - Second Cycle Thematic list of recommendations

<i>Right or area: 12.7. Prohibition of slavery, trafficking</i>
Recommendation
132.143. Identify, protect and support victims of trafficking and forced labour (Australia); Source of position: A/HRC/31/5/Add.1 - Para. 132
132.145. Continue intensifying the efforts aimed at combatting trafficking in person and guarantee the protection of victims (Jordan); Source of position: A/HRC/31/5/Add.1 - Para. 132
132.146. Pursue and enhance efforts to combat human trafficking as well as raising awareness as to the threat posed by this scourge and protect its victims (Qatar); Source of position: A/HRC/31/5/Add.1 - Para. 132
132.144. Continue efforts on achieving gender equality and fighting against human trafficking (Greece); Source of position: A/HRC/31/5/Add.1 - Para. 132
132.148. Continue efforts to strengthen equality between men and women and in combatting trafficking in persons (Russian Federation); Source of position: A/HRC/31/5/Add.1 - Para. 132

	Recommending state/s	Position	Full list of rights/affected persons
	Australia	Supported	12.7. Prohibition of slavery, trafficking Affected persons: - general
	Jordan	Supported	12.7. Prohibition of slavery, trafficking Affected persons: - general
	Qatar	Supported	12.7. Prohibition of slavery, trafficking Affected persons: - general
	Greece	Supported	12.7. Prohibition of slavery, trafficking 29.1. Discrimination against women Affected persons: - women
	Russian Federation	Supported	12.7. Prohibition of slavery, trafficking 29.1. Discrimination against women Affected persons: - women

