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Lebanon: Give women their right to pass on nationality to their children

Amnesty International urges the Lebanese authorities to withdraw immediately an appeal they have filed against a landmark court ruling in June of last year allowing a Lebanese woman to pass on her nationality to her children.

The organization is deeply concerned that the Lebanese authorities are seeking to overturn such a landmark decision instead of implementing the court ruling and ensuring that Lebanon complies with its international obligations not to discriminate against women. If the Civil Chamber of the Court of Appeal overturns the decision, it will shatter hopes of thousands of children born to Lebanese mothers and foreign national fathers, who are treated as foreigners in their own country and denied access to public education and other services.

The Civil Chamber of the Court of Appeal that handles personal status cases is scheduled to hear on Tuesday 13 April 2010 the case of Samira Soueidan, a Lebanese citizen who was granted the right to pass on her nationality to three of her Lebanon-born children by the Fifth Chamber of the Court of First Instance in Mount Lebanon's Jdeidit al-Metn on June 16, 2009.

Samira Soueidan had initiated proceedings after her husband, an Egyptian national, passed away in 1994. In 2005, she filed a new lawsuit against the Lebanese state to challenge Law no. 15 of 1925 which grants the nationality and citizenship of children through the father only.

Under Lebanese law, women, unlike men, cannot pass on their nationality to their spouses or children. The children of Lebanese women married to a foreign national can not obtain Lebanese nationality. Non-Lebanese men married to Lebanese women also cannot get Lebanese citizenship, whereas non-Lebanese women married to Lebanese men can acquire the Lebanese nationality after one year of marriage. Such provisions in Lebanese law are in clear violation of Lebanon's obligations under international law, including the principle of non discrimination (Article 2 of the International Covenant on Civil and Political Rights (ICCPR)), the principle on equality between men and women (article 3 of the ICCPR) and equality before the law (Article 26 of the ICCPR).

Disregarding such discriminatory provisions, judges John Qazzi, Rana Habaka, and Lamis Kazma argued in their June ruling that Article 7 of Lebanon's Constitution asserts the principle of equality before the law for all citizens, men and women. They, therefore, granted Samira Soueidan the right to confer her nationality to her children. However, this court decision was challenged by the public prosecution and a legal commission at the Ministry of Justice on behalf of the Lebanese state in July and September respectively.

In addition to such discriminatory provisions in the law, women's inability to pass their nationality to their spouses and children has a pervasive effect on the entire family. Spouses and children must continuously secure residency and work permits that enables them to live and work legally in Lebanon. The children are considered residents, not citizens, and consequently are denied the rights enjoyed by nationals regarding access to education, and later employment.

By opposing the June court ruling only months before Lebanon is scheduled to come under scrutiny in the framework of the Universal Periodic Review of the UN Human Rights Council sends a worrying message that the Lebanese state persists to undermine the cornerstone principle of non discrimination..

It also shows that the state is ignoring the concluding comments made by the Committee on the Elimination of Discrimination against Women in its fortieth session in 2008. The Committee regretted Lebanon's assertion that it cannot, for political reasons, amend its nationality law to allow Lebanese women to pass their nationality to their children and foreign spouses. The Committee urged Lebanon to recognize the negative impact of its nationality law on Lebanese women married to foreigners and on the children of those women and, accordingly, revise its nationality law and remove its reservation to article 9, paragraph 2.

Amnesty International calls on the Lebanese authorities to take immediate steps to review existing legislation containing discriminatory provisions against women and follow the steps taken by Algeria, Egypt and Morocco which have amended their nationality laws in recent years to grant women the right to give their nationality to their children and spouse.

Background:

In Lebanon, Law No. 15 of 1925 states that mothers are allowed to confer their nationality to their children only in two specific cases:

- A Lebanese mother can give her nationality to her child if the latter is born from an out-of-wedlock relationship, and the father is unknown.
- A non-Lebanese mother who has minor children from a previous marriage to a non-Lebanese father and who acquires the Lebanese nationality from a new Lebanese husband, can confer her acquired Lebanese nationality to her minor non-Lebanese children upon the death of her Lebanese husband.

Children born to Lebanese mothers and foreign national fathers face impediments regarding basic rights such as the right to education. Law No. 686 of 1998, which amended Article 49 of Decree No. 134/59 provides that: "Public education is free and compulsory in the primary phase, and is a right to every Lebanese in the primary education age." By specifying that only Lebanese children have a right to free primary education, the children of a Lebanese mother and a foreign father are denied equal access to education. This law is in breach of Lebanon's obligation, under Article 28 of the Convention on the Rights of the Child (CRC) to which Lebanon is a state party, Lebanon has an obligation to "make primary education compulsory and available free to all."

When children reach the age of 18, those with Lebanese mothers and foreign fathers have to find employers willing to pay high fees in order to obtain work permits for them. For this reason, employers usually avoid recruiting them.

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