



**International Convention on
the Elimination
of all Forms of
Racial Discrimination**

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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION

Thirteenth periodic reports of States parties due in 1996

Addendum

Lebanon*

[10 June 1997]

* This document contains the sixth, seventh, eighth, ninth, tenth, eleventh, twelfth and thirteenth periodic reports of Lebanon, submitted in one consolidated document, and which were due on 12 December 1982, 1984, 1986, 1988, 1990, 1992, 1994 and 1996 respectively.

For the second, third, fourth and fifth periodic reports of Lebanon, which were submitted in a single document, and the summary record of the meeting at which the Committee considered those reports, see documents CERD/C/65/Add.4 and CERD/C/SR.516.

The information submitted by Lebanon in accordance with the consolidated guidelines for the initial part of the reports of States parties is contained in the core document HRI/CORE/1/Add.27.

INTRODUCTION

1. This report is submitted in conformity with article 9, paragraph 1, of the International Convention on the Elimination of All Forms of Racial Discrimination.

2. Each State party has undertaken to submit to the Secretary-General of the United Nations, for consideration by the Committee on the Elimination of Racial Discrimination, a report on the legislative, judicial, administrative or other measures which it has adopted and which give effect to the provisions of the Convention.

Article 1

3. The following will be considered successively under this article, and as a supplement to Part I: (a) the community or religious system in Lebanon; (b) its conformity with article 1, paragraph 4, of the Convention; (c) the effect of the constitutional amendments of 21 September 1990.

A. The community or religious system in Lebanon

4. Modern Lebanon, within its present borders, became a unitary State in 1920, following the dismantling of the Turkish Empire, when the various religious communities that make up the Lebanese people joined forces.

5. The Mandate adopted on 24 July 1922 by the Council of the League of Nations under article 22 of the Covenant of the League gave France the Mandatary, the task of framing an organic law for Lebanon within three years. The Mandatary had to fulfil the following obligations, among others:

- Establish "a judicial system which shall ensure to natives as well as to foreigners a complete guarantee of their rights", on the understanding that "respect for the personal status of the various peoples and for their religious interests shall be fully guaranteed" (Mandate, article 6);
- Refrain from denying or impairing "the right of each community to maintain its own schools for the instruction and education of its own members" (article 8, third paragraph);
- Refrain from "all interference ... in the management of religious communities ..., the immunity of which has been expressly guaranteed" (article 9).

6. The "Legislative Commission" set up by the Mandatary in 1922 under the Mandate was composed of members designated on the basis of their membership of the various communities or religions. Similarly, the "Representative Council", which was established in 1922 and adopted the Constitution of 1926, was made up of representatives elected on the basis of the distribution of seats between the communities.

7. The Lebanese Constitution, promulgated on 23 May 1926, confirms the guarantees enjoyed by the communities. Article 9 provides as follows:

"There shall be complete freedom of conscience. While acknowledging the Most High, the State shall respect all creeds and safeguard and protect the free exercise of all forms of worship, on condition that public order is not interfered with. It also guarantees that the personal status and religious interests of the people, to whatever creed they belong, shall be respected".

8. Under article 10:

"There shall be no interference with public instruction as long as it is not contrary to public order and morals and does not affect the dignity of any of the religions. The communities shall be entitled to maintain their own schools, provided that they conform to the general State requirements relating to public instruction".

9. Prior to the constitutional amendments of 21 September 1990, article 95 stipulated that:

"Provisionally, and in the interests of justice and harmony, the communities shall be equitably represented in public employment and in the composition of the Government, provided that the well-being of the State is not prejudiced thereby".

10. There are therefore two forms of confessionalism: confessionalism as to "personal status" and political confessionalism.

11. Confessionalism as to personal status means that everything affecting the family - marriage, filiation (including adoptive filiation, separation, divorce) and, to some extent, successions - comes under the laws drawn up by the various communities under the authority of the State. Family-related problems are settled by religious courts.

12. Political confessionalism means that political and administrative posts are distributed among the various communities. In addition to the above-mentioned article 95 of the Constitution, there is a constitutional tradition in accordance with which the President of the Republic, elected by the Chamber of Deputies, must be a Maronite Christian, the President of the Chamber of Deputies is elected by the deputies from among the Shi'ite Muslims, and the Prime Minister must be a Sunnite Muslim. The ministerial portfolios are also distributed on the basis of quotas for each community.

13. The Electoral Act provides that the parliamentary seats to be filled in each district are distributed among the various communities in the district according to specific quotas, based on their numbers.

14. The size of each community within the country's Muslim and Christian groupings is reflected in the number of seats in the Chamber of Deputies to which each is entitled under the Electoral Act. The 128 seats in Parliament are distributed as follows:

Muslims

Sunnites	27
Shi'ites	27
Druzes	8
Alawites	2

Christians

Maronites	34
Greek Catholics (Melchites)	8
Greek Orthodox	14
Evangelicals	1
Armenian Catholics	1
Armenian Orthodox	5
Minorities	1

Total	<u>128</u>
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"Minorities" include Latins, Syriacs (Catholics or Orthodox), Chaldeans, Assyrians (formerly known as Nestorians), Copts and Jews.

15. It is important to point out that in each electoral district voters of a given creed vote not only for the candidate(s) of their creed, but for an entire list of candidates of various creeds, according to the seats to be filled, the aim being to safeguard and strengthen national unity.

16. The same proportions must be observed for nominations to posts in the administration. Since 1990 this rule has been restricted to high-level public service posts.

17. Some authors have described the community or religious system in Lebanon as "personal federalism" - and this in a State which, as we know, is unitary. In other words, instead of this federalism having a territorial basis, with each citizen answerable to the central State through a federated unit (province or canton), it is through his membership of a community that the Lebanese belongs to the State, regardless of his place of residence.

18. It would be difficult to specify the nature of these communities (see Kamal Hamdan, Conflit libanais: communautés religieuses, classes sociales et identité nationale, Paris, Ed. Garnier, 1977). Even though in principle each person is at liberty to belong to the creed he feels is in conformity with his religious beliefs, in the overwhelming majority of cases membership of a community is the result of being born into a family registered as being of a particular creed. The celebration of marriage before a given religious authority, which means the marriage is subject to its laws, does not necessarily imply faith in the religion in question or the daily observance of its forms of worship. The same goes for participation in public life or access to public service.

19. Are the religious communities in Lebanon therefore ethnic groups? Are the Lebanese classified according to their origins? Clearly, Armenians,

Syriacs (categories under the heading "minorities") and Alawites have specific origins. The term "Greek" (Orthodox or Catholic) refers to Byzantine forms of worship. In general, however, and even though the genetic particularities of each community have been identified as the result of a long practice of endogamy (see the study by Prof. Jacques Ruffie and Prof. Najib Taleb, Etudes hémotypologiques des ethnies libanaises, Paris, 1965), the communities should be classified as groups of families each with their own religious and cultural particularities (for the "cultural groupings" thesis), see Antoine Nasri Messarra, Théorie générale du système politique libanais, Paris, Ed. Cariscript, 1994, p. 25).

B. Conformity with article 1, paragraph 4, of the Convention

20. Is the community system described above an example of distinction based on descent or national or ethnic origin, which would have the purpose or effect of "nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other fields of public life", under article 1, paragraph 1, of the Convention?

21. With the above-mentioned reservations about equating Lebanese religious communities with ethnic groups, it should be recognized that the distinctions created by the religious system were not meant, in the eyes of the founding fathers of the Lebanese Republic, to constitute discrimination in the sense of article 1, paragraph 1, of the Convention, but were in fact more in keeping with the spirit of paragraph 4 of that article, which allows special measures to be taken to secure the progress or protection of certain racial or ethnic groups ... "in order to ensure [them] equal enjoyment or exercise of human rights and fundamental freedoms". The religious system was originally intended both to protect all the groups making up the Lebanese people and to ensure them all equal chances of development and progress.

22. The disadvantages of the system, from the standpoint of the Convention, are that it does not provide for persons who do not wish to disclose their descent, ethnic origin or religious faith in order to participate in public life or to found a family (civil marriage does not exist in Lebanon; marriages celebrated abroad are recognized by the Lebanese authorities but are subject to the law of the place where they were celebrated). Thus, what was originally viewed as a safeguard of the fundamental rights and freedoms of the groups that make up the Lebanese nation has for a long time been seen by some as an impediment to the freedoms of those individuals who do not wish to identify themselves with a particular group.

23. This is in keeping with article 1, paragraph 4, of the Convention, which makes the measures it authorizes provisional, and with article 95 of the Lebanese Constitution, under which, as early as 1926, the equitable representation of the communities in public employment and in the composition of the Government was to be transitional in nature.

C. The effect of the constitutional amendments of 21 September 1990

24. The document of national understanding of 22 October 1989, also known as the Taif Agreement (from the name of the city in Saudi Arabia where the

Lebanese deputies met to end a series of armed conflicts that had lasted 16 years), called for the step-by-step elimination of political confessionalism. This document resulted, inter alia, in amendments to the Constitution, which were promulgated on 21 September 1990. Paragraph 4 of the new Preamble adopted on that date provides for the gradual elimination of political confessionalism. The new article 95 states:

"The Chamber of Deputies, elected on the basis of equality between Muslims and Christians, shall take appropriate measures to eliminate political confessionalism, according to a step-by-step plan. A national committee shall be established, under the presidency of the President of the Republic and comprising, in addition to the President of the Chamber of Deputies and the President of the Council of Ministers, eminent political, intellectual and social personalities.

"The mandate of this committee shall be to study and propose means of eliminating confessionalism and to submit them to the Chamber of Deputies and the Council of Ministers, and also to continue execution of the step-by-step plan."

"During the interim period:

"(a) The communities shall be equitably represented in the formation of the Government.

"(b) The rule of confessional representation is abolished. It shall be replaced by specialization and competence in the public service, the magistrature, the military and security institutions, and public and mixed undertakings, in conformity with the needs of national understanding, with the exception of first-category or equivalent functions. These functions shall be shared equally between Christians and Muslims, and no function shall be reserved for a particular community, in accordance with the principles of specialization and competence."

25. There is still resistance to the elimination of confessionalism, even in its political dimension, as many people have tended to view the system as a means of securing civil peace among the Lebanese. Elimination will have to be effected gradually. The educational role of the Government, which must adopt a modulated stance, should not be overlooked. In an interview published on 26 May 1997, Mr. Rafic Hariri, the Lebanese Prime Minister, summed up the Government's position as follows: "There will be no question of abolishing the communities, but a political class that is national and no longer confessional must be created, while parity is maintained between Christians and Muslims. Numerical equality must be maintained between Christian and Muslim deputies, as this is necessary for national stability, and the present status of the leaders must be maintained: the Head of State must remain a Maronite, the Head of Government a Sunnite, and the Hhead of Parliament a Shi'ite."

Article 2

26. As stated in the updated core document of Lebanon (HRI/CORE/1/Add.27/Rev.1), treaties ratified or acceded to by Lebanon become part of internal law upon the exchange or deposit of the instruments of ratification or accession. Those provisions which are sufficiently specific and concrete will be implemented immediately. Lebanon's commitments under paragraphs 1 (a) and (b) therefore form part of Lebanese positive law and are in fact implemented in full. Lebanon engages in no act or practice of racial discrimination against persons, groups of persons or institutions on its territory or abroad. National and local public authorities and institutions act in conformity with this obligation. The State does not sponsor, defend or support acts or attitudes of racial discrimination by any person or organization.

27. Concerning article 2, paragraph (c), reference should be made to the step-by-step elimination of the political confessionalism mentioned under article 1, if confessionalism in fact constitutes or leads to discrimination on grounds of descent or ethnic origin.

28. Paragraph (d), on the prohibition of racial discrimination by any persons, groups or organizations, has not had to be implemented.

29. With regard to paragraph (e), and with the same reservation as that expressed above on equating religious communities with ethnic groups, a measure adopted by the Lebanese legislature concerning general elections should be cited. Pending the elimination of political confessionalism - which, as previously stated, is called for under new article 95 of the Constitution - and in order to strengthen national unity, the principle of the extended electoral district has been adopted. As the country is divided into six Mohafazat (governorates), each comprises a sufficiently broad spectrum of creeds. Lebanese citizens are thus invited to vote not just for the candidates of their creed as in the past, but for other candidates as well.

30. Article 2, paragraph 2, concerning special measures in the social, economic, cultural and other fields in favour of certain racial groups or individuals belonging to them, has not had to be implemented.

Article 3

31. Lebanon has always condemned racial segregation and apartheid. It severed diplomatic relations with South Africa while that State was practising apartheid, sacrificing its economic interests vis-à-vis that country, where numerous Lebanese live.

Article 4

32. At no point in its history has Lebanon promoted or permitted the propagation on its territory of theories based on the superiority of a race or a group of persons of a particular colour or ethnic origin. During the Second World War, it made political choices that demonstrated its tradition of racial non-discrimination.

33. Under article 317 of the Criminal Code, "any act, written word or statement whose object or effect is to excite religious or racial hatred or to promote dissension between the communities or different elements of the population shall be punishable by a prison term of one to three years and by a fine of 100,000 to 800,000 Lebanese pounds ...". The court may also order the judgement to be published.

34. Article 318 imposes the same penalty on "any person who belongs to an association founded for the purposes mentioned in the previous article". For an officer of such an association, the prison term may not be less than one year and the fine not less than 100,000 Lebanese pounds. The association will also be disbanded and its assets confiscated.

35. The legal provisions governing the print and broadcast media prohibit any publication or broadcast liable to give rise to religious or racial fanaticism.

Article 5

36. Paragraph (c) of the Preamble added to the Lebanese Constitution on 21 September 1990 provides that "Lebanon is a democratic parliamentary Republic, based on respect for public freedoms, foremost among which is freedom of opinion and belief, and on social justice and equality of rights and obligations among all citizens, without distinction or preference".

37. Chapter 2 of the Constitution, entitled "The Lebanese, their rights and their obligations", provides in article 7 that "All Lebanese are equal before the law. They shall enjoy equal civil and political rights and be equally bound by public responsibilities and duties, without any distinction".

38. It is true that, as in many Constitutions, the affirmation of equality of rights and obligations applies to citizens and not to men and women in general. However, no provision of Lebanese law distinguishes between races or individuals on the grounds of colour or of national or ethnic origin. As stated in the first part of this report, the Preamble to the Constitution reaffirms Lebanon's attachment to the Universal Declaration of Human Rights.

39. There are more than 400,000 Palestinian refugees in Lebanon (nearly 20 per cent of all inhabitants), as well as Syrian, Egyptian, Sudanese, Ethiopian, Sri Lankan, Philippine, Indian and other workers. Some 800,000 foreigners work in the construction industry, factories, service stations or hospitals or as domestic workers. There is no restriction on their freedom of conscience, freedom of association, the individual use of national languages, freedom of worship or the celebration of religious or secular holidays. There is no obstacle to their access to the courts.

40. With regard to equal treatment before the courts, none of the provisions of the Code of Civil Procedure, the Code of Criminal Procedure or the Organization Act of the State Council, the administrative court, and no provision governing the various courts dealing with professional discipline authorizes discrimination among litigants on grounds of race, colour, descent or national or ethnic origin. In daily practice these courts operate according to the same principles.

41. None of the provisions of the Lebanese Criminal Code protecting the right to security of person and to protection against violence or bodily harm by public servants, individuals, groups or institutions permits any racial discrimination. The same applies to the above-mentioned codes of procedure and the Prison Organization Act. There has been no noteworthy breach of these principles to report.

42. It should also be recalled that article 14 of the Constitution stipulates that "Dwellings shall be inviolable. No one may enter therein except in the circumstances and in the manner prescribed by law".

43. The implementation of the provisions of article 5 (e), on political rights, is fully covered in this report under article 1. It should be recalled that Lebanon practices universal suffrage for general and municipal elections. It should also be recalled that under article 7 of the Constitution, "All Lebanese are equal before the law. They shall enjoy equal civil and political rights and be equally bound by public responsibilities and duties, without any distinction".

44. In relation to the right to freedom of movement and residence within the national territory, to leave the country and to return to it, the following should be stated.

45. In order to remedy the enforced geographical distribution of the Lebanese population according to individual religious affiliation following the armed conflict that ravaged the country for more than 15 years, paragraph (i) of the Preamble, added to the Lebanese Constitution on 21 September 1990, provides:

"The national territory belongs to all Lebanese. Every citizen has the right to reside in any part of the territory and to benefit thereby in accordance with the sovereignty of the law. The (geographical) distribution of the population on the basis of any affiliation is prohibited, as are splitting, partition (of the territory) and settlement (of Palestinians)."

46. In accordance with this principle, and in order to allow the return of displaced persons to the original places of residence from which they were driven by the armed conflicts, and particularly by the bloody events of early September 1983 following the brutal withdrawal of Israeli troops from part of Lebanon's territory, a far-reaching programme is being implemented. It involves the organization of reconciliation meetings in villages where population displacement occurred, followed by the granting of subsidies for the reconstruction or restoration of dwellings.

47. With regard to the right to leave the country, however, one problem with which the Government must deal is the free return of certain foreign employees to their own countries. Some Lebanese employers "confiscate" their foreign employee's passport; having paid for the cost of the employee's travel from his country to Lebanon, for example, the employer wants to ensure that his employee will fulfil his contract for the minimum time the employer needs in order to recover his expenses. In most cases, the employee concerned goes to his country's consul in Lebanon to obtain a new passport in accordance with

the procedure applicable for a lost passport. It should, however, be stressed that this deplorable practice affecting foreign workers, which is covered by the general provisions of the Criminal Code, is not racially motivated.

48. The right to Lebanese nationality derives from the principle of ius sanguinis. However, in order to put an end to the many cases of statelessness affecting entire families who have been living on Lebanese soil since before 1920, the principle of grouped naturalization has been adopted. The naturalization decree of 1994 has, however, covered persons who already possessed other nationalities, and the total number of persons who have been naturalized in this fashion accounts for 8 per cent of the population.

49. The right to marriage was referred to under article 1, with regard to confessionalism. Marriages between members of different branches of the same religion, Muslim or Christian, are common, except for the Druze community, which practices endogamy. Mixed Muslim-Christian marriages, although generally discouraged by the family, are possible but relatively rare. With these exceptions and in normal situations, there is no obstacle to freedom of marriage.

50. Civil marriage does not exist in Lebanon, and there is no civil law governing such marriages. Any Lebanese who wishes to marry must observe his own community's religious form of celebration of marriage. As previously stated, civil marriages celebrated abroad are recognized by the Lebanese authorities. In the event of a dispute, the Lebanese civil courts will apply the law of the place where the marriage was celebrated. Foreigners may be married by the consul of their country if authorized to do so by their national law.

51. The President of the Republic recently proposed that a civil law should be drafted to govern personal status, marriage and family law, which would supplement the current religious laws and would apply to foreigners residing in Lebanon and also those Lebanese who so desired. This proposal has not, however, been favourably received.

52. Concerning the right to own property, article 15 of the Lebanese Constitution states that "The right to own property shall be protected by law. No person may be deprived of his property except on grounds of public utility in the cases laid down by law and upon payment in advance of fair compensation". The implementation of this article, and its translation into rules and regulations, have not been marred by any racial discrimination. The Real Property Act sets a limit on the size of property that may be acquired by non-Lebanese, but without distinction as to race.

53. All of the other rights under article 5 are granted by the laws and regulations, without any racial discrimination, with the sole reservation that domestic workers, of whom the overwhelming majority are foreigners, are not adequately protected as to working hours. This is certainly not a case of racial discrimination, but a practical difficulty in managing the working hours of employees who live and work in their employer's home on a permanent basis.

Article 6

54. The rights and freedoms of individuals and groups are established in Lebanese law without racial discrimination. Access to the courts is open to all without discrimination. Any individual or group may thus have recourse to the courts in order to secure observance of their rights and to obtain any compensation to which they may be entitled.

55. Furthermore, the International Convention on the Elimination of All Forms of Racial Discrimination forms part of Lebanese positive law by virtue of its automatic incorporation into domestic law. Any litigant may, therefore, invoke it to ensure observance of his rights.

56. In practice, there have been no noteworthy cases of violation of these principles.

Article 7

57. Because of the absolute priority which the Government currently has to give to national reconstruction and reconciliation, it has not been possible to adopt a major information campaign to combat the prejudices that lead to racial discrimination. Such prejudices are, however, rare.
