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# The Vulnerability of the Syrian refugee women in Lebanon and the Sex Trafficking

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## **Abstract**

Many cases of sex trafficking of Syrian refugee women have been reported by the local and international NGOs after the migratory crisis of 2011. We consider that the Syrian refugee women are vulnerable group due to several personal and social conditions that push them into a disadvantaged position in the Lebanese society and, somehow, it explains the increasing of the cases of sex trafficking that are affecting them. The vulnerability, in their case, is represented, first, in a personal level, which includes the discrimination on a gender-basis, and second, in a socio-economic level referred to the inequalities suffered, primarily, for the lack of a legal status that allow them to earn the necessary means to survive and the position that they have in the society. These elements are accompanied with the inequality before the law and it can be understood as an intersectional discrimination based on gender and the condition of refugee that creates a disproportionate condition of disadvantage compared to the rest of the population in Lebanon.

<b>Table of Contents</b>	
	Page
<b>1. Introduction and delimitation of Subject</b>	4
<b>Methodology</b>	10
<b>Context</b>	12
1.1. Previous considerations	12
1.2. Approximation to the Refugee law	12
1.3. The behavior of Lebanon towards Palestinian Refugees: Non-integration policy.	15
1.4. Situation after the Syrian migration crisis of 2011.	17
<b>2. Part I.- Vulnerability of the Syrian refugee women.</b>	20
2.1. Personal Vulnerability	23
2.2. Typical Vulnerability	29
2.3. Atypical Vulnerability	32
2.4. Intersectionality	35
<b>3. Part II.- Sex trafficking and the Syrian refugee women.</b>	
3.1. Overview of the issue of sex trafficking in Lebanon	38
3.2. International and National legal framework about Human Trafficking.	42
3.3. The prostitution in Lebanon	48
3.4. The application of the Anti-trafficking law and the Lebanese criminal code.	50
3.5. The demand of prostitution,	52
3.6. The shelters for victims of Sexual Gender Based Violence created by the NGOs	54
<b>4. Conclusions</b>	56
<b>5. Bibliography.</b>	61

## 1.-Introduction

The vulnerability of the Syrian women refugees relies on several endogenous and exogenous features that result in the discrimination by multiple factors and which ends up in the affectation of their human dignity. As Eduardo Galeano said once: *“in everyday life, even if you do not know it, you are always choosing between freedom and fear. And that somehow makes politics”*, unfortunately, they are unable to choose freedom, just fear, fear from being punished, deported or raped. Freedom is an uncertain notion, a philosophical entity that no one is able to know in its complete extend, but the refugees have been victims of the social inequalities that occurs worldwide, and freedom, for them, is rather a *“utopia”*. Inside this group, children and women take the majority of the risks that implies to flee from home towards another country, where they are more likely to suffer several kind of abuses, mainly sexual ones, and several social conditions increase the probabilities that some of these violations happen to them. The vulnerability is a concept that has not been extensively defined in a legal perspective, even though certain groups have been defined as vulnerable as it is the case of elders, children, people with disabilities and women under certain contexts of systematic violence. Thus, as a previous approximation, the concept of vulnerability has been defined by Blakie et al. mentioning three elements: the characteristics of the group, the risk of a threat for their fundamental rights and the capacity to overcome that threat<sup>1</sup>. Furthermore, when there are more than one element under which a person or group suffers discrimination and inequalities, for example refugee condition and gender, those cannot be perceived as isolated elements, and for this reason we think that the theory of intersectionality previously developed by K.Crenshaw<sup>2</sup> applies. We will develop these concepts in the first part of this research.

The vulnerability of the Syrian refugee women under this context will be analyze in four different perspectives: In first place, the personal vulnerability, implying the element of

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<sup>1</sup> B. Wisner, P. Blaikie, T. Cannon and I. Davis *“At Risk: Natural hazards, people’s vulnerability and disasters”* Routledge, second edition, 2003, p. 11.

<sup>2</sup> K. Crenshaw. Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color. In: Martha Albertson Fineman, Rixanne Mykitiuk, Eds. *The Public Nature of Private Violence*, 1994, p. 93-118.

gender as a key factor that increases the vulnerability of the Syrian refugee women in Lebanon. In second place, the typical vulnerability, related to the socio economic disadvantages as a consequence of the lack of a proper legal status, namely, residency permit, which forbids them to earn a proper income for supporting their families and covering the basic human needs. In third place, we will analyze the atypical vulnerability, encompassing the inequalities before the law and discrimination that are facing the Syrian refugee women in Lebanon, related to both, the perspective of gender and the refugee status. In fourth place, we identify the existence of the intersectionality and the fact that the Syrian refugee women live the discrimination of both, gender and refugees, as unseparated conditions, increasing the risk of suffering several kinds of abuses, such as sexual violence, in general, and sex trafficking in specific, which is the one of the consequence of the vulnerability that is going to be analyzed in this humble contribution.

After the Syrian migration crisis of 2011, the sex trafficking networks have targeted the Syrian refugee women both in Syria and Lebanon, as it has been increasingly denounced by several NGOs and international organizations, and the poor living conditions, the gender and the inequalities before the law have a direct link with those kind of practices. Constantly, the literature has described the abuses that the migrant women suffer while fleeing from their home country, passing through transit countries and then arriving to the host country, such as it is described by S. Pickering and A. Gerard, who have commented about the presence of a systematic gender-based violence crossing the borders of Somalia<sup>3</sup>. However, the mentioned authors also state that the studies of gender, transit and refugee protection have been focused mainly in-camps<sup>4</sup>, therefore, there is few description of the conditions of the migrant women once they have been settled outside the camps and how the gender based violence and refugee conditions affect them in an intersectional basis. The Syrian refugee women have been considered as vulnerable in a very wide and vague term, however, few studies have defined exhaustively the elements of the vulnerability based on the context of the country of destination, in this case Lebanon.

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<sup>3</sup> S. Pickering and A. Gerard *The Journey to the Border: Continuums of Crossing*. In Pickering, D. S. (ed.) *Women, Borders and Violence*. London: Springer, 2011, pp. 17–37.

<sup>4</sup> S. Pickering and A. Gerard, *Gender, Securitization and Transit: Refugee Women and the Journey to the EU*, London: Springer, 2013, p. 341

The context in Lebanon has been sharpened with the lack of commitment to protect refugees, demonstrated with the non-ratification of the Convention Relating to the Status of Refugees from 1951 and the Protocol relating to the Status of Refugees of 1967, and also, considering the previous behavior and the policy of non-integration of the Lebanese authorities vis-à-vis the Palestinian refugees since 1948. The outcome of this policy, nowadays, has been the absence of a proper legal status for the Syrian refugees who fled into Lebanon since 2011, seeking for international protection, while the treatment given to the refugees has not been intended to encourage their human development and has set a quantity of restrictions that start from the residency permit and end up in several prohibitions including working legally and earning enough money to cover the living expenses of the family members.

Moreover, there is a context of Gender Based Violence (hereinafter GBV) in Lebanon that has been the outcome of the culturally rooted inferiority of the women in the society. The inequalities of the women before the law, in affairs of family and nationality, are just the surface of the deep inequalities based on gender, for instance, to have a small sample, the national legal framework does not protect women from cases of marital rape or harassment. Both examples can provide a first insight of the background suffered by the women in general in Lebanon, but the situation is even worst in the case of the Syrian women because the lack of a proper legal status and the socioeconomic situation relegate them to a disadvantaged position compared to the rest of the women in the country, and the access to justice seems unreachable for them. The existence of sex trafficking, as a form of GBV, is one of the consequences of the vulnerable situation of the Syrian refugee women in Lebanon. About the violence, J. Galtung has elaborated a theory defining three of its forms: personal, structural and cultural<sup>5</sup>. The personal violence means violence with a subject, structural violence is violence without a subject, whereas the cultural violence is the legitimation of both kind of violence<sup>6</sup>. Thus, the sex trafficking is a form of violence against women and has to be considered as a multiple offensive crime that belongs to another level of intensity compared

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<sup>5</sup> J. Galtung, Conflict, War and Peace: A Bird's Eye View," in Searching for Peace: The Road to Transcend, 2nd edition., eds. Johan Galtung, Carl G. Jacobsen, and Jai Frithiof Brand-Jacobsen (London and Sterling, VA: Pluto Press, 2002, p. 4.

<sup>6</sup> J. Galtung, "Cultural Violence," Journal of Peace Research 27 ,1990, pp. 291–305

with some of the most common types of violence such as domestic violence and harassment. We will argue in the following parts of this contribution about the cultural violence against women in Lebanon and how it is accepted and somehow legitimize, using Galtung's idea. On the other hand, the sex trafficking, according to Siddharth Kara, can be identified in three levels: the first one is the acquisition of the victim by means of force, buy, seduction, deceit, among others. The second is the movement of the victim across international borders and the third one is the exploitation of the victim in forms of sexual services, labor or body organs<sup>7</sup>. Anne Wilson argues also that *'Refugees are at particular risk for human trafficking – a consequence of their vulnerable status, the devastating losses they have experienced, and their precarious life situations until durable solutions become available'*<sup>8</sup>. In this sense, According to UNHCR, the human trafficking risk for refugees has been increasing worldwide<sup>9</sup>, and Lebanon does not escape from this reality.

The sex trafficking has been considered the second most common practice related to this crime and one of the most profitable businesses in the world after drug trafficking and weapon dealing. It needs to be understood as a business, ruled by the elements of supply and demand, and there is where the organized crime constantly targets the most vulnerable population, while finding the supply to cover the men's demand for sexual encounters. Thus, that supply would be covered, normally, by women in disadvantaged conditions whose aim is to find a solution for their future, but they end up being kidnapped, sold or deceived by close relatives or members of the organized crime trying to achieve the business purpose of the sexual exploitation.

In a comparative study, S. Tiefenbrun describes that in the US the women are trafficked obtaining long term visas, B1 and B2, which are commonly used by the traffickers in Eastern Europe and Asia to send women<sup>10</sup>. In Russia and Ukraine the traffickers obtain multiple visa

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<sup>7</sup> S. Kara, *Sex Trafficking: Inside the Business of Modern Slavery*. New York: Columbia University Press, 2009.

<sup>8</sup> A. P. Wilson, *Trafficking risks for Refugees*, Lutheran Immigration and Refugee Service, Baltimore, Maryland November, 2011.

<sup>9</sup> M. Riiskjaer and A. M. Gallagher, "Review of UNHCR's Efforts to Prevent and Respond to Human Trafficking," UNHCR Policy Development and Evaluation Service September 2008

<sup>10</sup> S. Tiefenbrun, *The Saga of Susannah A U.S. Remedy for Sex Trafficking in Women: The Victims of Trafficking and Violence Protection Act of 2000*, Utah Law Review, N.1, 2002, p. 119

entries for three months to send the victims of sex trafficking to both countries and in Latvia, Czech Republic and Poland they can obtain a multiple entry visa for ten years<sup>11</sup>. In Mexico, Thailand and China they can obtain also a ten year visa to complete the business and send the exploited women<sup>12</sup>. These practices take place due to the lack of scrutiny of the embassies and authorities to provide visas. In the second part of this dissertation we describe, in-depth, the legal framework related to the human trafficking, both international and local.

The prostitution, as one of the consequences of the sex trafficking, has been historically under the public debate because of the moral principles involved in it and the different legal debates and political approaches that are discussed and implemented to tackle this practice, however, there is a male-centered stereotype that is not aimed to solve the problem of the sex trafficking, and constantly the population assumes that a woman joins the prostitution voluntarily, but the reality cannot be more distant: behind every woman practicing prostitution, someone is receiving economic profits from the exploitation and exercising the right of ownership on her. Therefore, it is important to understand that there is a misconception of the prostitution and it implies that in Lebanon, according to the current legislation of trafficking and prostitution, the sex workers are considered either victims of human trafficking or criminals for practicing prostitution. This double standard of legislation will have a different impact in the destiny of the women who are sexually exploited due to the treatment that they receive from the authorities. Thus, the decision whether a prostitute is a criminal or a victim of sex trafficking will have a different outcome on her reintegration into the society and the psychological support that is meant to receive from the shelters that have provided protection.

Last but not least, the element of the demand will be analyzed and linked with the culture of GBV in the country, because even though the demand is not regularly explored, it has a direct impact in the equation of the prostitution networks, simply because without demand, there shall be not supply, following the theory of the free market. There is a cultural challenge around the demand due to the social acceptance of the practices of the prostitution and the misconception that ‘men have more sexual needs’ that must be satisfied by the sex workers.

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<sup>11</sup> Tiefenbrun Op.Cit, p. 119

<sup>12</sup> Ibid.

The added value of this dissertation is to describe the Syrian women refugees as a vulnerable group, with especial attention to the causes and the consequence of the vulnerability. The international legal framework obliges the States to adopt positive measures to overcome the threats surrounding a vulnerable group, and those measures have to be adapted to the elements that cause the vulnerability. Thus, defining the intersectionality of both elements, gender and the refugee condition, enhance the awareness and the adoption of measures by the authorities adapted to the particular reality and the necessities of this vulnerable group according to the characteristics that make them more vulnerable, and then diminish the risk to suffer abuses related to those bases.

For that reason, we will propose the following research questions: Why the Syrian refugee women have a vulnerable condition in Lebanon? Which are the features that make them more vulnerable? How the vulnerability explains the cases of sex trafficking and prostitution within Syrian refugee women? How are the Lebanese authorities protecting the victims? Which kind of protection shall be provided by the State? Which is the role of the NGOs towards this problem? We will further answer these questions based on the following hypothesis: Several conditions increase the vulnerability of the Syrian women refugee in Lebanon and make them more likely to become victims of sex trafficking.

## **Limitations**

Due to the sensitivity of the topic, during this research we found few limitations for conducting primary interviews with victims of sex trafficking. While conducting the interviews with experts from the NGOs we asked about the possibility to interview few victims that have been treated in the shelters, but they warned us about the impossibility due to the complexity of the topic and the efforts that they have done in order to keep their personal data as classified. Also, the language barrier represented a challenge for some interviews, however we received support for the translation.

## Methodology

For this thesis, we have considered different primary and secondary sources of information. We would like to highlight that, because of the sensitivity of topic that is the main object of our study, it has been a challenging to collect primary source information. For that reason, we have made several semi-conducted interviews with the NGOs and governmental institutions that are related to the field of sex trafficking. In some cases, it has been a challenge to settle interviews with some organizations, and even more difficult to be able to obtain a primary source interview with one of the victims. The following interviews were conducted:

### 1. NGOs

KAFA<sup>13</sup>, is a feminist, secular, Lebanese, non-profit, non-governmental civil society organization, that advocates to eliminate all forms of gender-based violence and exploitation since its establishment in 2005. The objective of the interview was to identify the profile of the victims of trafficking for sexual exploitation and other relevant information concerning the features of the vulnerability of the Syrian refugee women and the cases of sex trafficking. Person interviewed: Maeva Breau, Program Coordinator of Violence and Exploitation.

ABAAD<sup>14</sup> Is a non-profit, non-politically affiliated, non-religious civil association that aims to achieve gender equality as an essential condition to sustainable social and economic development in the MENA region. ABAAD is the co-chair of the National Technical Task Force to End GBV against women and girls (chaired by the Ministry of Social Affairs) in Lebanon since 2012. The objective of the interview: (1) Identifying the cultural elements that encourage the violence against women and the impact on the Syrian women. The shelters for victims and the coordination between the NGOs and the government. Person Interviewed: Roula Masri, Gender Specialist. (2) Identifying the features of the shelters were the victims are treated and the cases of sex trafficking and survival sex. Person Interviewed: Saja Michael, Sexuality and SRHR Program Manager.

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<sup>13</sup> <http://www.kafa.org.lb/profile>

<sup>14</sup> <http://www.abaadmena.org/>

FEMALE/ LEBANESE WOMEN DEMOCRATIC GATHERING <sup>15</sup>. Is a secular non-governmental women organization which works with the democratic forces and represents a part of the advocacy secular democratic women's movement, on the basis of international pacts and treaties, as well as the Universal Declaration of Human Rights and the Universal Declaration on the Elimination of Violence Against Women, in order to promote women's status and participation and empower them, aiming at achieving full equality between both sexes. Objective of the interview: Identifying the profile of the victims of trafficking for sexual exploitation and other relevant information concerning the features of the vulnerability of the Syrian refugee women, the work of the NGO towards the issues of sexual exploitation. Person Interviewed: Hayat Mirshad, Gender Specialist, Head of the NGO Female and member of the board of the Lebanese Women Democratic Gathering

## 2. PRESS

Omar Ouahmane. Correspondent of Radio France in Beirut. Objective of the interview: Personal perspective about the interview that he had elaborated with a 16 years old Syrian girl who was victim of sex trafficking.

## 3. GOVERNMENT AND PUBLIC INSTITUTIONS

INTERNAL SECURITY FORCE OF LEBANON (ISF)<sup>16</sup>.- the interior security forces are general armed forces, and its authorities incorporating all the Lebanese lands as well as the territorial waters and airs. The Objective of the interview was: (1) Receiving data about the amount of victims of human trafficking in Lebanon, the response of the police for tackling this issue, the procedures implemented for dismantling the sex trafficking networks and the opinion about the issue of human trafficking and sexual exploitation of Syrian refugee women. Interviewed: Johnnie Haddad, Head of the department of Human Trafficking of the ISF. (2) Identifying the challenges that the police have to tackle the crimes of human trafficking. Interviewed: Zyad Kaed Bae, Head of the Training Department of the ISF

MINISTRY OF REFUGEES AFFAIRS. – The Ministry was created to create policies and help in the development of the refugees. This meeting was organized by the faculty of

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<sup>15</sup> <http://www.rdfwomen.org/eng/>

<sup>16</sup> <http://www.isf.gov.lb/en>

Political Science of University Saint Joseph of Beirut and for students from a Migration lecture. The objective of the meeting was to have an overview of the situation of the refugee crisis in Lebanon and what the government is doing to tackle the issue. Person interviewed: Mouin Merheby, Minister of Refugee Affairs of Lebanon.

## **Context**

### 1.1.-Previous considerations

Jerome Frank, the North-American philosopher, has stated that the law cannot be regarded as a formal system due to the quantity of facts and patterns that intervene in the human affairs and make the legal decision unpredictable. That is the reason why the regional courts of protection of human rights has always used the context along their jurisprudence to enlighten the legal decisions based on a systematic analysis. Therefore, our legal analysis contains an structured context with the following elements: in first place, a previous consideration about the legal refugee status in Lebanon to highlight the important aspects of the legal framework; in second place, the description of some features of the previous behavior of Lebanon *vis-a-vis* the Palestinian refugees, in order to establish a precedent to the position of Lebanon nowadays *vis-a-vis* the Syrian refugees, and in third place, we will analyze the situation after the Syrian migration crisis of 2011 and how the authorities have dealt with this issue. All these elements will be the base of our further analysis about the vulnerability of the Syrian refugee women located in the second part of this paper.

### 1.2.- Approximation to the refugee law

#### *The refugee status*

The Convention Relating to the Status of Refugees of 1951 (hereinafter CRSR) has been set as the first legally binding instrument for refugee protection adopted in the *corpus iuris* of the International Human Rights Law, based on two legal precedents such as the UN General Assembly Resolution 319 A (IV) of December 1949, referring to refugees and stateless

persons, and the UN General Assembly Resolution 428 (V) of 14 December 1950, establishing the statute of the Office of the United Nations High Commissioner for Refugees. The CRSR relies on the principle that *“human beings shall enjoy fundamental rights and freedoms without discrimination”*<sup>17</sup>, hence, it has provided a definition in the article 1.A.2 *ejusdem*, establishing that a refugee is everybody who has a *“well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable, or owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it”*<sup>18</sup>. Nonetheless, other legal instruments have broadened the scope of the concept of refugee, extending the protection to those who are victims of natural disasters, armed conflicts, and generalized violence, not necessarily considering a direct persecution established in the definition of the article 1.A.2 of the CRSR<sup>19</sup>.

Apart from that, a discussion has been also set whether or not the gender-based persecution shall be included inside the definition disposed by the article 1.A.2 of the CRSR, because, commonly, there are contexts that encompass severe discrimination against women with the practices of female genital mutilation, domestic violence, and trafficking for sexual exploitation and force labor<sup>20</sup>. In the case of human trafficking, women might be in danger of sexual exploitation as a form of GBV, considered as a torture and cruel, inhuman or degrading treatment<sup>21</sup> by UNHCR. Therefore, the claim of a refugee status based on gender basis is valid when the home country is unable or unwilling to provide the security needed<sup>22</sup> according to the features of their case.

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<sup>17</sup> Convention Relating to the Status of Refugees (adopted 28 July 1951, entered into force 22 April 1954) 189 UNTS 137 (Refugee Convention), preamble, considering 1<sup>st</sup>.

<sup>18</sup> Ibid. article 1.A.2

<sup>19</sup> F. Mariño Menendez, *Recent Jurisprudence of the United Nations Committee against torture and the international protection of Refugees*. Oxford Refugee Survey Quarterly, 2015, p.64

<sup>20</sup> UNCHR, GUIDELINES ON INTERNATIONAL PROTECTION: Gender-Related Persecution within the context of Article 1A (2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees. p 3

<sup>21</sup> Ibid., p.5

<sup>22</sup> Ibid.

Lebanon has not either ratified the CRSR nor the Protocol of 1967<sup>23</sup>, and anyone seeking for international protection is considered to fall within the definition of displaced people<sup>24</sup>, notwithstanding, the latter legal concept applies to the displacement that has taken place in-borders, which, in any case, corresponds to the situation of the Syrian refugees in Lebanon. In addition, Lebanon does not have internal legislation relating to the refugee status, and the Regulation of the Status of Foreign Nationals in Lebanon from 1962 only provides in the VIII chapter the right of asylum for political persecutions, leaving aside the refugee status for those who fall within the definition of the article 1.A.2 of the CRSR and the extended concept of refugees that applies to the population victim of natural disasters, armed conflicts, and generalized violence.

Although Lebanon has not ratified the CRSR, a Memorandum of Understanding has been signed along with UNHCR<sup>25</sup> in 2003 regulating the status of the migrants from Iraq, and establishing the tasks of UNHCR in Lebanon *vis-a-vis* the refugees. In the memorandum, the Lebanese government and UNHCR agreed that Lebanon is considered as a transit country rather than an asylum seeking one, and has thus defined an asylum seeker as ‘those who are seeking for asylum in a country other than Lebanon’.

Regarding the Syrian population, before the beginning of the war in 2011, the migration of Syrians to Lebanon was ruled by a bilateral agreement for Economic and Social Cooperation and Coordination<sup>26</sup>, signed in 1993, but in December 2014, when the war has started and the migration has begun, some restrictions for the entrance of the Syrian population were progressively implemented. After the Syrian migratory crisis of 2011, Lebanon agreed with UNHCR to register the people fleeing from Syria to Lebanon, but even though that registration was not considered as a residency permit, it guaranteed at least the principle of non-refoulement established in the national law about Regulation of the Status of Foreign

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<sup>23</sup> Protocol Relating to the Status of Refugees (adopted 31 January 1967, entered into force 4 October 1967) 606 UNTS 267 (Protocol). Available at: <http://www.ohchr.org/Documents/ProfessionalInterest/protocolrefugees.pdf>

<sup>24</sup> Law about the Regulation of the Status of Foreign Nationals in Lebanon 1962, appendix 1

<sup>25</sup> Submission by the United Nations High Commissioner for Refugees for the Office of the High Commissioner for Human Rights' Compilation Report – Universal Periodic Review: The Republic of Lebanon April 2010

<sup>26</sup> [http://www.syrlb.org/%20docs/agreements/03SOCIAL\\_ECONOMICeng.pdf](http://www.syrlb.org/%20docs/agreements/03SOCIAL_ECONOMICeng.pdf),

Nationals in Lebanon of 1962<sup>27</sup>, which also engages the government to provide access to health and food<sup>28</sup> for the refugees. After January 2015, the registration stopped and, since then, all the refugees that have fled into the country have not been granted with the assistance provided by UNHCR. This practice overturns the principle of non-refoulement because the non-registered refugees are likely to be deported despite of the fact that they have a well-founded fear to return to their countries. But in these cases, even though the refugee status has not been provided, the principle of non-refoulement is considered as a rule of customary law that has to be protected by Lebanon despite the fact that has no ratified the CRSR. It is important to note as well that the non-ratification of the above-mentioned instruments cannot be used as an excuse by any state for violating the obligations that are included in the rest of the treaties on human rights, which protect every human being despite of their legal status in the country.

### 1.3.- The behavior of Lebanon towards Palestinian Refugees: Non-integration policy.

For understanding the current situation of the Syrian refugees in Lebanon, attention has to be given upon the previous experiences in the country with the immigration issues. After the year 1948, a considerable number of Palestinian refugees entered and settled in the Lebanese territories seeking for protection, and since then, about 2 or 3 generations were born under the Lebanese mandate. Those are stateless generations to whom no citizenship has been granted and the annual renewal of a residency permit has been required<sup>29</sup>. Their refugee status falls within the mandate of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), which classified the Palestinian refugees in four groups: those who are registered as refugees within the UNRWA and the Lebanese authorities; those non-registered in the UNRWA but only within the Lebanese authorities; non-ID refugees who are not registered in any of both, and the Palestinian refugees coming from Syria after the crisis of 2011<sup>30</sup>. The majority of them have been living in overcrowded refugee camps under low standards of living conditions such as salty water, electricity cuts

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<sup>27</sup> 1962 Regulation of the Status of Foreign Nationals in Lebanon, Op. Cit., Article 31: “In the event that a former political refugee is deported, he or she may not be removed to the territory of a country where his or her life or freedom is threatened.”

<sup>28</sup> Centre Libanais de Droits Humains- *Legal Challenges Faced by Refugees from Syria in Lebanon*, 2016, p.13 available in: [http://www.rightsobserver.org/files/Legal\\_challenges\\_for\\_refugees\\_from\\_Syria\\_2016\\_.\\_web.pdf](http://www.rightsobserver.org/files/Legal_challenges_for_refugees_from_Syria_2016_._web.pdf)

<sup>29</sup> Amnesty International report “*I want a safe place*”, Index number: MDE 18/3210/2016, 2016, p. 20.

<sup>30</sup> UNCHR, *The situation of Palestinian Refugees in Lebanon*, 2016, p.2

for 12 hours a day and large amount of garbage<sup>31</sup>; whereas there are others who live outside the camps, also under regrettable conditions. None of them have the right to own private property<sup>32</sup> and have been treated as second class citizens while they have been segregated in the professional field with the impossibility to practice at least 20 professions<sup>33</sup>. This has been the main obstacle for a full integration in the society, because most of the Palestinian refugees are stateless and consequently unprotected when they do not have access to the guarantee of their economic, social, civil and political rights, specifically the right to a legal personality. The Lebanese provisions towards the Palestinians have to be compared with those implemented by the neighboring countries such as Syria and Jordan, which have created policies where the Palestinian refugees are able to work and own private property<sup>34</sup>, even though their conditions are not ideal whatsoever in terms of livelihood and citizenship. This situation has created a socio-economic imbalance inside the Lebanese society and the Palestinians are condemned, somehow, to belong to the lowest socio-economic class.

Unfortunately, all the previous experience with the refugee situation has not been managed with policies adapted to the international standards of protections falling within the mandate of the treaties duly ratified by Lebanon, such as the right to non-discrimination, protection of the freedom of movement, the right to work, right to a legal personality, health care and education. Regarding the experience mentioned above, is necessary to identify a first pattern of non-integration policy in the conduct of the Lebanese authorities, who have adopted misleading laws and implemented policies that separate the refugees from a real social inclusion and depress their human development by violating their fundamental rights. The political reason of the non-integration policy of the Palestinian refugees might be the fact that the different religious groups were represented in the Constitution of 1926 with the aim of creating a system of power-sharing<sup>35</sup> and the arrival of the Palestinians was a challenge for

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<sup>31</sup> Danish Immigration Service (DIS), *Stateless Palestinian Refugees in Lebanon* – Report from Danish Immigration Service’s Fact Finding Mission to Beirut, Lebanon, 25 May to 6 June 2014, October 2014, p. 38 available: <http://bit.ly/1Qt79A2>

<sup>32</sup> J. Chaaban, et al. *Socio-Economic Survey of Palestinian Refugees in Lebanon*, American University of Beirut (AUB) and the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA). 2010, page IX.

<sup>33</sup> Amnesty International ‘*I want a safe place*’, op. cit., p. 20.

<sup>34</sup> J. Chaaban, et al. op. cit., p. IX.

<sup>35</sup> L. Andersen. *The Neglected Palestinian Refugees in Lebanon and the Syrian Refugee Crisis*, DIIS report 2016:2, The Danish Institute for International Studies, Copenhagen and the Institute for Migration Studies,

Lebanon by that time, where almost 100.000 of them fled to Lebanon and the population has grown up to 450.000. As they are majority Sunnis, we think that the Lebanese authorities might consider a threat for the stability of the political system integrating this religious group, which is going increase the Sunni population and being the majority.

Our analysis will be followed by the conduct of the authorities nowadays facing a bigger migration crisis coming from Syria, where around 1.500.000 have fled from into Lebanon, including Syrians and Palestinian refugees from Syria.

#### 1.4.-Situation after the Syrian migration crisis of 2011.

Since the Syrian armed conflict has started in 2011, a migration crisis has begun as a consequence of the intense violent context that the population has suffered. One of the outcomes of the crisis has been the migration of approximately five million Syrians into neighboring countries and Europe<sup>36</sup>. Thus, Lebanon, as a neighbor country *par excellence*, has received over one million Syrians refugees<sup>37</sup>, in a relation of one fifth of the total of the Syrian migration force, being the country with more refugees *per capita* in the world. Additionally, is important to repeat that the Lebanese government does not consider Lebanon as an asylum seeking country but rather as a transit State<sup>38</sup>, avoiding the procedure for granting a refugee status as part of the policy of non-integration coming from the previous experience with the Palestinian refugees, that might be noted as one of the root problems within the Lebanese authorities and the position of the refugee population in the society.

As it has been stated above, Lebanon has not ratified the Convention Relating to the Status of Refugees from 1951<sup>39</sup>, therefore the migrants are not considered as refugees but as displaced persons<sup>40</sup> and they can only be provided with a regular migratory status, applicable to foreign citizens overall. This issue represents a threat for the Syrian refugees once they

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Lebanese American University, 2016, p. 11  
Beirut.[http://reliefweb.int/sites/reliefweb.int/files/resources/DIIS\\_Report\\_2016\\_12\\_Web.pdf](http://reliefweb.int/sites/reliefweb.int/files/resources/DIIS_Report_2016_12_Web.pdf)

<sup>36</sup>(UNHCR), "UNHCR Syria Regional Refugee Response", in *UNHCR Syria Regional Refugee Response*, 2017, <<http://data.unhcr.org/syrianrefugees/regional.php>> [accessed 7 June 2017].

<sup>37</sup> Ibid.

<sup>38</sup> S. Hidalgo et al. *Beyond Humanitarian Assistance? UNHCR and the Response to Syrian Refugees in Jordan and Lebanon January 2013 – April 2014*, TRANSTEC-UNHCR, 2015, p.98

<sup>39</sup> Convention relating to the Status of Refugees, op. cit.

<sup>40</sup> M. Janmyr, *Precarity in Exile: The Legal Status of Syrian Refugees in Lebanon*, Refugee Survey Quarterly, 2016, 35 (4): 58-78.

manage to access the Lebanese territories, because the treatment that they should receive has to be adapted to the particular conditions of vulnerability. Apart from that, in 2014, the Lebanese cabinet implemented the ‘Policy on Syrian displacement’<sup>41</sup> where they agreed to adopt a closed-border policy ‘putting an end to displacement across the borders, except for exceptional humanitarian cases, and registering those who enter [Lebanese] borders based on reasons of entry in order to verify the implementation of these measure’<sup>42</sup>, and it has functioned as a framework for establishing a criteria to allow the entrance of the migrants who are fleeing from Syria into Lebanon. On December 2014 a first admission criteria was implemented based on categories such as tourism, study, transit, medical treatment, business, transit or visa applications in foreign embassies<sup>43</sup>, however, during 2015, the criteria was expanded to those ‘holders of a residential rental agreement, holders of Lebanese residence permits and their family members, spouses of Lebanese nationals, children of Lebanese women, wives of Palestinian refugees registered in Lebanon, holders of residence permits in another Arab or foreign country and diplomats’<sup>44</sup>.

Consequently, the closed-border policy jeopardizes the rights of the Syrian fleeing into Lebanon for humanitarian reasons and, for those who are already in the territory, imposes the impossibility to obtain a legal residency permit. About the closed-border policy, the current Minister for Refugees Affairs of Lebanon Mouin Merheby has stated that if the Syrians cross the legal borders, then they cannot argue that they are refugees escaping from the armed conflict, otherwise they would cross through illegal tracks<sup>45</sup>. We politely dissent from this statement, because as it is notorious the existence of an armed conflict in Syria then they authorities cannot pre-judge the conditions of the refugees based on the way they have used to enter into the country.

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<sup>41</sup> "الأول تشرين 23 جلسة", in *Pcm.gov.lb*, 2017, <<http://www.pcm.gov.lb/arabic/subpg.aspx?pageid=6118>> [accessed 7 June 2017].

<sup>42</sup> "Lebanon Places Discriminatory Entry Restrictions on Syrians", in *English.legal-agenda.com*, 2017, <<http://english.legal-agenda.com/article.php?id=679&folder=articles&lang=en>> [accessed 7 June 2017] referring to "الأول تشرين 23 جلسة", Op. Cit.

<sup>43</sup>Ibid.

<sup>44</sup>Ibid.

<sup>45</sup> Meeting with the State Minister for Refugees Affairs of Lebanon Mouin Merheby on march 2017, Headquarter of the Ministry for Refugees Affairs, Downtown, Beirut, Lebanon.

The second problem concerning the reception of refugees in Lebanon has been providing a legal residency permit that would allow them the enjoyment of all the rights under the Lebanese constitution and the international treaties of human rights, such as work permits, health care, access to justice, just to mention few of them. All the refugees registered under UNHCR until 2015 were required to renew their residency permit every year paying a fee of 200 USD, although this practice has been abolished by the General Security<sup>46</sup> in February 2017 and has been implemented in practice, according to the Minister of Refugees Affairs Mouin Merheby<sup>47</sup>. Nonetheless, this measure does not apply to those refugees who are not registered within the UNHCR, approximately 500.000<sup>48</sup>, because either they are not able to secure a residency permit because they do not fall within the criteria of acceptance or are required to find a Lebanese sponsor who responds on their behalf. However, the latter formula represents a challenge for the refugees due to their dependence from a Lebanese citizen, being more likely to suffer abuses.

According to the data collected by the UNHCR, in 2016 only 21% of the householders declared that all their family members had the residency permit, representing an important reduction compared to the year 2015 with 28% and 2014 with 58%<sup>49</sup>. In the case of women householders, during 2016 only 18% declared that all the family members had the residency permit<sup>50</sup>. The amount of householders overall without a residency permit has increased up to 29%<sup>51</sup> and around 97% of them have declared that the lack of financial means was the main cause of the application for obtaining the residency permit<sup>52</sup>.

In consequence, the situation in Lebanon vis-à-vis the migration crisis of 2011 has not been fair for the Syrian refugees, and the Lebanese authorities have implemented a closed-border policy, not providing humanitarian assistance to them, and not granting a residency permit for those who are already settled in the territory. About the non-integration policy, the

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<sup>46</sup> "Lebanese General Security - posts", in *General-security.gov.lb*, 2017, <<http://www.general-security.gov.lb/ar/posts/216>> [accessed 7 June 2017].

<sup>47</sup> Meeting with the State Minister for Refugees Affairs of Lebanon Mouin Merheby, op.cit.

<sup>48</sup> B. Khawaja, *The Gaps in Lebanon's new refugee policy*, Human Rights Watch, 2017, <<https://www.hrw.org/news/2017/03/14/gaps-lebanons-new-refugee-policy>> [accessed 7 June 2017]

<sup>49</sup> UNCHR, UNICEF and WFP *Vulnerability Assessment of Syrian Refugees in Lebanon*, 2016, <<http://reliefweb.int/report/lebanon/vulnerability-assessment-syrian-refugees-lebanon-2016>> p. 14.

<sup>50</sup> *Ibid*,

<sup>51</sup> *Ibid*.

<sup>52</sup> *Ibid.*, p.1

Minister of Refugee Affairs has declared that Lebanon is saving the life of the Syrians but “Lebanon is first”, and they are responsible to keep the Syrian alive but they cannot compete with the Lebanese<sup>53</sup>. He also stated that they are not blocking the Syrians to go back home nor obliging them to leave the country, because in Lebanon they are living with 2 dollars per day, and he assured that they could earn more money in Syria<sup>54</sup>. These statements coming from the Minister can give us an idea of the position of the authorities *vis-à-vis* the Syrian refugees, who do not consider the causes of the migration crisis and the fear that the refugees have to return to Syria.

For this reasons explained, the aim of this paper is to define the vulnerability of the Syrian women refugees in different perspectives, as we will discuss in the following part.

## **2.- Part 1 Vulnerability**

Our purpose in this section is to analyze the concept of vulnerability in a legal perspective by sharpening and defining its real content in order be considered as an obligation that relies on the State to adopt positive public policies guided to guarantee the enjoyment of their human rights, adapted to their particular conditions.

The vulnerability is a concept that has been constantly used to address the characteristics that make human beings and certain groups more likely to suffer threats on their fundamental rights, yet, these characteristics varies within the groups and has a relation with the biological, environmental, social and economic factors of the population. It is represented in every human being and group, however, some groups that are more likely to suffer the impact of the structural inequalities in the society. Mary Neal has stated that *“Vulnerability speaks to our universal capacity for suffering, in two ways. First, I am vulnerable because I depend upon the co-operation of others (including, importantly, the State) . . . Second, I am vulnerable because I am penetrable; I am permanently open and exposed to hurts and harms of various kinds”*<sup>55</sup>.

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<sup>53</sup> Meeting with the State Minister for Refugees Affairs of Lebanon Mouin Merheby, Op. Cit.

<sup>54</sup> Ibid.

<sup>55</sup> M. Neal, *Not Gods but Animals: Human Dignity and Vulnerable Subjecthood*, 33 Liverpool L. Rev. 177, 2012, 186–187.

The World Health Organization<sup>56</sup>, in its attempt to define the vulnerability in the frame of natural disasters, has used a concept developed by Blakie et al., previously mentioned in the literature review, describing the vulnerability as *“the characteristics of a person or group and their situation that influence their capacity to anticipate, cope with, resist and recover from the impact of a natural hazard (an extreme natural event or process)”*<sup>57</sup>, and the authors also add to the definition the following description: *“It involves a combination of factors that determine the degree to which someone’s life, livelihood, property and other assets are put at risk by a discrete and identifiable event (or series or ‘cascade’ of such events) in nature and in society. Some groups are more prone to damage, loss and suffering in the context of differing hazards. Key variables explaining variations of impact include class (which includes differences in wealth), occupation, caste, ethnicity, gender, disability and health status, age and immigration status (whether ‘legal’ or ‘illegal’), and the nature and extent of social networks”*<sup>58</sup>.

Thus, this definition, even though is referring to the vulnerability under situations of natural disasters, it contains elements that can be subtracted and adapted to any particular group under any kind of context. Those elements are: the characteristics of a group, the likelihood to suffer damages under certain risks and the capacity to resist and recover from the impact of a particular social or natural event. These elements, we believe, can define the notion of vulnerability taking into account that a vulnerable person or group is the one that have certain characteristics, biological or social, that reduce their capacity to recover from the impact of a social or natural event and, therefore, are more likely to suffer damages when the risk is represented.

The notion of vulnerability has been developed by the States and the International Organizations since 1951, after the creation of the Convention Relating to the Status of Refugees, recognizing the refugees as vulnerable groups due to the several socio-economic disadvantages and the presence of a real threat towards their fundamental rights when they flee from a country to another seeking for international protection. As a matter of

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<sup>56</sup> B. Wisner and J. Adams, *Environmental health in emergencies and disasters*, World health Organization NLM/LC classification: WX 185, 2002, p. 13

<sup>57</sup> B. Wisner, P. Blaikie, T. Cannon and I. Davis Op. Cit., p. 11.

<sup>58</sup> *Ibíd.*

consequence, the States agreed that the disadvantages required a special international protection and the application of positive measures must be undertaken by each State in order to tackle this issue. As well, hard work has been done either by the United Nations and the countries when drafting international conventions for the protection of disadvantaged groups such as children, women, elderly and people with disabilities, identifying characteristics of each group that make them more likely to suffer damages of their integrity

The regional courts of protection of human rights, such as the Inter-American and the European, throughout jurisprudence, have contributed as well with an important role of developing an effective reasoning for a more defined scope of the obligations of the States towards the vulnerable groups, granting the minimum standards of protection developed as positive obligations of the States. That is the case of the Inter-American Court, who has decided cases related to indigenous rights, children rights, people with disabilities and women under a context of gender violence, defining the features that make them more vulnerable and describing the obligations of guarantee that need to be granted by the States.

Then, is important to identify two core elements when referring to vulnerable groups: one of them, the endogenous (personal), related to the disadvantages related to the physical capacity of the person, whereas the other one is the exogenous (social), related to the socioeconomic background and the position of a person before the law<sup>59</sup>. In the case of the endogenous element, there are groups of people whose intrinsic human features make them be in disadvantage compared to the rest of the humanity, identifying children, women, elders and people with disabilities as such. Among the groups of people affected by exogenous elements, these have been identified as the migrants, the civilians under armed conflicts and LGBTI groups.

The authors Uribe and Gonzalez<sup>60</sup> have developed a general scheme of analysis for the comprehension of the vulnerability that we will use to define the situation of the Syrian women refugees with a legal perspective in our further analysis. According to the scholars, as mentioned above, the vulnerability comes in a double standard based on endogenous and

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<sup>59</sup> E. Uribe Arzate, M. González Chávez, *La Protección Jurídica de las Personas Vulnerables*, Revista de Derecho Nro. 27, Barranquilla, 2007, p. 209.

<sup>60</sup> Ibid. pp. 210-211.

exogenous features. The endogenous features imply the *personal vulnerability* which is intrinsically related to the biological elements of the person such as children, elders, women (under certain context) and people with disabilities. The exogenous features are divided in two groups, first the *typical vulnerability* related to the social and economic features of the person, and second, the *atypical vulnerability*, based on the vulnerability caused by the legal context.

Using the mentioned concepts, we will describe the *personal vulnerability* based on gender, the *atypical vulnerability*, based on the socio-economic situation of the refugee, and the *typical vulnerability*, which describes the discrimination and the unequal position of the Syrian women refugee before the law. In the last part of the analysis, we will add a fourth element, the intersectionality, as a concept that has to be considered in order to tackle the situation of vulnerability based on multiple factors, exogenous and endogenous, as we believe is the case of the Syrian women refugees.

#### Personal vulnerability: The Refugee women as a vulnerable group in Lebanon.

The Convention on the Elimination of all Forms of Discrimination Against Women<sup>61</sup> (hereinafter CEDAW) defines the discrimination against women as *“any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field”*<sup>62</sup>. Inside the definition, the CEDAW has stated that the violence can be *“directed against a woman because she is a woman or that affects women disproportionately”*<sup>63</sup>. It is important to highlight that Lebanon has ratified the CEDAW with reservations on articles 9.2 and 16.1 c, d and f, respectively related to the right of the women to pass the nationality to her husband and children, equal responsibilities during the marriage, equality in the parental rights and duties, and equal rights for the custody and tutorship of the children. The reservations made by Lebanon in the

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<sup>61</sup> Convention on the Elimination of all forms of Discrimination against Women (CEDAW) adopted in 1979, entered into force 3 of September 1981 UNTS 1249 Available at: <http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm>

<sup>62</sup> Ibid.

<sup>63</sup> CEDAW, General Recommendation Nro. 19 11th session 1992, paragraph 6.

CEDAW, on an international level, shows a pattern of gender inequality before the law that are reflected in several aspects in the society.

In order to identify a specific group of refugee women as vulnerable, the element of gender has to be strictly identified, described and contextualized in order to differentiate the treatment that a particular gender receives when facing the same situation, or if the same treatment affects more one gender than another in a disproportionate way. Historically, the women have been victims of sexual violence during armed conflicts, becoming a target used by the armed forces for shaming and demoralizing the communities<sup>64</sup>. In that sense, the UN started tackling the issue of women and refugees after 1985 in the annual Executive Committee of UNHCR<sup>65</sup>, and for the first time, in 1993, the Executive Committee Conclusion 73 described the existence of a link between the sexual violence against refugee women and the coerced displacement<sup>66</sup>. The refugee experience reflects that the biggest amount of them are women with children who have suffered psychological damage due to several situations of harm and risk under the context of an armed conflict.

Some personal features make women vulnerable, under certain contexts, due to a physical fragility<sup>67</sup> that differs between male and female. Regarding the vast number of armed conflicts worldwide, statistically speaking, women suffer certain kind of treatments more than men do, such as forced labour, torture, selective murder, and sexual violence. But women are not only vulnerable during armed conflicts, and accordingly, the Inter-American Court of Human Rights establishes that in cases of violence against women, special attention has to be given to the context in which the violence is committed<sup>68</sup>, such as the case *Gonzalez and others (cotton fields) vs Mexico*, where three young girls were disappeared, sexually abused and killed, thus the court has analyzed the context under which the crimes were committed against these women, arriving to the conclusion that those corresponded to cases of GBV encouraged by a systematic conduct of discrimination and the cultural inferiority of

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<sup>64</sup> E. Pittaway and L. Bartolomei, *Refugees, Race, and Gender: The Multiple Discrimination against Refugee Women*, 1991, Refugee 19(6): 21

<sup>65</sup> Ibid. p 22

<sup>66</sup> Ibid.

<sup>67</sup> R. Estupiñan-Silva, *La vulnerabilidad en la jurisprudencia de la Corte Interamericana de Derechos Humanos: Esbozo de una Tipología*. Cahier Europeen Universiy Paris I Pantheon-Sorbonne, 2014, p. 211

<sup>68</sup> Case *Gonzalez et. al ("Cotton Field") v. Mexico* [2009] (Inter-American Court of Human Rights), paragraph. 133.

the women in the society<sup>69</sup>. In this case, the responsibility of the states is to implement public policies able to revert the situation of the group considered as vulnerable<sup>70</sup> regarding the special features that make them more likely to suffer certain kinds of suffering under a context of inferiority.

After reviewing some reports of GBV in Lebanon, we wanted to investigate about the culture of inferiority of the women with the aim of establishing a link between those practices and the cultural element, and for that reason we had the opportunity to interview Hayat Mirshad, Head of the NGO Female who clearly described the features of the inequalities between women and men in the country “ *First, they come from the tradition and culture of gender norms and conceptions, raising children with this patterns. This conception is represented in any part of the society like for examples in jobs. There is inequality before the law and also in the political system. For example, the law 552 (who allow the rapist to be forgiven of his crime by marring his victim) was a trick and was not removed, they removed it because of the pressure of the NGOs. There are differences with the inheritance laws, marriage laws for example, where the women suffer discrimination also between women and women due to the personal status* ”<sup>71</sup>. This description defines certain elements of the culture and the inequalities before the law in general terms, however, those inequalities are the expression and the base of the role of the women in the society. These cultural inequalities can trigger sequences of violence against women and, in that sense, Mrs Mirshad has stated that “ *There is no protection against sexual harassment and in the social security system there is a difference between men and women. In the case of child marriage there is a difference of treatment depending on the personal status as well and we are now advocating to fix the minimum age for marriage at 18 years old for all the religious sects. There is also an economic gap between men and women because of the work opportunities. The women have a domestic role and they work when they need it and not because they think is a right. There are also differences with the nationality law. The representation of women in the parliament*

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<sup>69</sup> Ibid. paragraph .132.

<sup>70</sup> Case *Ximenes Lopes v. Brazil* [2006] (Inter-American Court of Human Rights), paragraph. 103

<sup>71</sup> Hayat Mirshad, head of FEMALE and member of the board of Lebanese Women Democratic Gathering, Interviewed on 30 of march 2017 at the Lebanese Women Democratic Gathering Headquarters, Furn el-Chebak, Beirut, Lebanon.

*is only 3% and there is only one-woman minister out of 29 ministers, so there is no political participation*<sup>72</sup>.

Whereas Roula Masri, Head of the department of Gender Equality of the NGO ABAAD declared that *‘‘The level of cultures and practices is in the larger level and individual level, how men perceive women and how women perceive themselves. The patriarchal culture does not look at women as equal. Sometimes there are practices as early marriage and domestic violence and how the violence is normalized and they think is a normal part of their life. In the streets and the work place there is sexual harassment, so violence against women is an issue in Lebanon and there are attempts to address the issues but they don’t tackle all the problem (with the law). There is marital rape, early marriage, marriage under 552 law. Those elements are not tackled properly*<sup>73</sup>

After the Syrian crisis, the women had to face several cases of GBV that is typically related to migration contexts. Several women have problems due to the lack of attention received from the authorities, like providing a residency permit, which is a key element for the enjoyment of several rights which they don’t have access to, such as working, access to justice and access to health care. In 2012 the International Rescue Committee in collaboration with ABAAD elaborated a report where the women interviewed stated that rape and sexual violence were the most common practices suffered by girls and women while they were in Syria and also once they have been settled in Lebanon<sup>74</sup>. In Lebanon, this forms of violence have been mostly committed within their homes, frequently involving family members, whereas they have also reported knowing cases where armed actors entered to their homes and targeted the women of the family in order to ‘‘dishonor’’ and coerce men<sup>75</sup>. Additionally, the focus groups reported that the early marriage has increased due to the economic situation suffered by the refugees<sup>76</sup>, because even though it is a practice that was already widespread in Syria, their economic situation in Lebanon has extended it. There are also cases of

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<sup>72</sup> Ibid.

<sup>73</sup> Roula Masri, Head of the department of gender equality of ABAAD, Interviewed on 5th of May 2017, ABAAD Headquarters, Furn el-Chebak, Beirut, Lebanon.

<sup>74</sup> International Rescue Committee, *Syrian women and girls: Fleeing death, Facing ongoing threats and humiliation*, 2012, p.3

<sup>75</sup> Ibid. p.5.

<sup>76</sup> Ibid. p.3.

“survival sex” that have been reported as one of the most common methods of exploitation<sup>77</sup>, namely, the Syrian refugee women are asked to provide sexual favors in exchange of money, food or any other compensation. This information was confirmed by Maeva Breau from KAFA who declared that *“in the case of the landlords sometimes they ask for sexual favors if the women cannot pay, and it is less likely to happen if they have a man around them”*<sup>78</sup>.

About the GBV, Maeva Breau also stated during our interview that *“Last year study domestic violence, perception, there is more than 40% that know about one case of domestic violence. Women beaten by father, brother etc. The average of people that don’t know is 3% but was in the Lebanese population. In 2014 the law of family violence was a good step and the police is very committed. There are a good number of protection orders for women, there is a good public opinion and I think is a very good law and implementation. The violence against women is normal so we are trying to create awareness in order to change that”*<sup>79</sup>. This study shows that the cases GBV is part of the common knowledge of the communities and there is cultural acceptance combined with the lack of access to justice that block the possibility to overturn these kind of practices.

When we asked Roula Masri from ABAAD about the situation of the Syrian women refugee she added that *“In 2016 the women that were rescued from the mafia all of them were Syrian, they are more vulnerable to such practices. We did a qualitative study, the Syrians are more vulnerable to be harassed and suffer sexual violence and it takes place in camps, for example. In relation to early marriage there are cases, we don’t have exact numbers but I have to say that another factor is the awareness in the communities and the violence against women are more evident and the media is covering more and there is more information about these practices”*<sup>80</sup>. We would like to highlight the importance of the awareness that shall be done within the communities in order to diminish the cultural practices that harm the integrity of the women, however, we believe that the authorities should have more participation

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<sup>77</sup> Ibid. p.5.

<sup>78</sup> Maeva Breau, Program Coordinator of Violence and Exploitation of KAFA, interviewed on the 27<sup>th</sup> of April 2017, KAFA Headquarters, Badaro, Beirut, Lebanon.

<sup>79</sup> Ibid.

<sup>80</sup> Roula Masri, Op. Cit.

encouraging the bottom-up changing by adopting education policies and laws that stimulate a social change.

About the sexual exploitation, international NGOs such as International Amnesty, Human Rights Watch, the International Center for Migration Policy Development, and at the national level the NGO KAFA, have constantly reported about the practice of sex trafficking that has raised after the Syrian refugee crisis of 2011 and the suffering of the women and girls that end up being victims. In an interview followed with Omar Ouahmane, the correspondent of Radio France in Beirut, he commented to have had the opportunity to make a report about one 16 years old Syrian girl that was orphan in Syria and then obliged to get married with a man that afterwards sold her to the organized crime, and now is being sexually exploited in one of the "super night clubs" in Junieh, Mont Lebanon. He also had to pay a fee of 200 USD to a "fixer" or intermediate in order to get the interview which lasted less than one minute and he warned us about the difficulties to have access to this sources<sup>81</sup>.

Certainly, as it has been stated above, women cannot be regarded as vulnerable groups *per se* in all contexts but only in those related to a systematic violence based on gender, where it exists a culture of inferiority encouraged by the lack of positive policies from the States that guarantee the equality between men and women<sup>82</sup>. This context of inferiority and the context of GBV explained above, have a direct impact in the vulnerability of the Syrian refugee women in Lebanon. Analyzing the GBV and the culture of inferiority of the women in the Lebanese society, the situation of the Syrian women refugees has to be analyze through the following facts:

In first place, they are victims (directly or indirectly) of an armed conflict in Syria since the year 2011, therefore, as mentioned above, they were vulnerable under that context because of the existence of a real threat capable of make them suffer several kinds of abuses based on gender, such as sexual violence and torture, with an unmeasurable psychological impact. The fact that they were under an armed conflict and now the situation has stopped in Lebanon

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<sup>81</sup> Omar Ouahmane, Correspondent of Radio France in Lebanon, interviewed on the 27<sup>th</sup> of April 2017, Gemmayze, Beirut, Lebanon.

<sup>82</sup> Case *Gonzalez et. al* ("Cotton Field") v. Mexico [2009] Op. cit. paragraph.282

does not mean that the vulnerability has ceased, because the psychological consequences of being abused under the armed conflict still remain.

In second place, they fled from their home country and looked for protection abroad, finding in Lebanon a place where at least the right to life would be guaranteed. However, several reports demonstrate that the Syrian refugee women have been subject of any kind of sexual abuse, for instance, domestic violence, sexual harassment, raping and sexual exploitation. In 2014, trafficking for sexual exploitation was the second most common form of human trafficking in terms of the number of victims identified, after child trafficking for labour exploitation<sup>83</sup>. Those kind of abuses have to be related to the general context of discrimination against women in Lebanon and the position before the society.

In third place, once placed in Lebanon, they have found several threats to their civil, political and socio-economic rights, simply because a refugee status is not recognized and a high number of them don't even have a residency permit. This situation affects the gender in a disproportionate way, as the women in a context of GBV and cultural inferiority are more likely to suffer harm.

Due to the elements added *ut supra*, is necessary to conclude that the Syrian refugee women suffer from a *personal vulnerability* because the gender is intrinsically related and proportional to the scope of the damage that they are likely to suffer, in a bigger amount that a man in the same situation would do. Generally speaking, refugees are vulnerable because of their conditions, however, even though they are facing the same living conditions, in the case of Syrian refugee women, there are several cases of GBV, some of them related to trafficking for sexual exploitation registered since 2015, which exemplifies that there is a disproportionate affection of rights.

### 2.3.- Typical Vulnerability

As we have mentioned above, the *typical vulnerability* is an exogenous factor that is related to the socio-economic conditions of certain groups and the effect that it has on matters of equality and social balance. Therefore, after identifying the *personal vulnerability* based on

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<sup>83</sup> ICMPD, *Targeting Vulnerabilities: The Impact of the Syrian War and Refugee Situation on Trafficking in Persons - A Study of Syria, Turkey, Lebanon, Jordan and Iraq*. Vienna: ICMPD, 2015, p.139

the gender as an endogenous factor, we will analyze the socio-economic conditions of the Syrian women based on their refugee conditions.

The Inter-American Court of Human Rights (hereinafter IACHR) has expressed in its Advisory Opinion about the Juridical Conditions and Rights of the Undocumented Migrants that *‘Migrants are generally in a vulnerable situation as subjects of human rights; they are in an individual situation of absence or difference of power with regard to non-migrants (nationals or residents). This situation of vulnerability has an ideological dimension and occurs in a historical context that is distinct for each State and is maintained by de jure (inequalities between nationals and aliens in the laws) and de facto (structural inequalities) situations’*<sup>84</sup>. Even though the court is referring to the migrant workers, this reality also applies to the refugees because they face the same socio-economic situation once they have been settled in a foreign country, thus, their situation is clearly affected because of the discrimination suffered, and the risk increases when it comes to the Syrian refugee women because of the combination of the GBV and the poor socio-economic status. Consequently, referring to the *typical vulnerability*, there are exogenous social and economic factors surrounding a person that can determine the affection to their living conditions and place them in a disadvantaged situation compared to the rest of the population, which will be a vulnerability in a different perspective than the gender one.

In that order of ideas, the IACHR has also stated that *‘Cultural prejudices about migrants also exist that lead to reproduction of the situation of vulnerability; these include ethnic prejudices, xenophobia and racism, which make it difficult for migrants to integrate into society and lead to their human rights being violated with impunity’*<sup>85</sup>, this is known as a structural discrimination. But apart from the cultural prejudices that they find when they settle in Lebanon, the situation is even worst when the authorities have a non-integration and closed-border policies that block any intend of social integration and the protection of human rights.

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<sup>84</sup> Advisory Opinion *Juridical conditions and rights of undocumented migrants* 18/03 [2003] (Inter-American Court of Human Rights), Paragraph 112.

<sup>85</sup> *Ibid.* Paragraph 113.

The undocumented migrants have been identified as vulnerable groups due to situations *de jure* (inequality before the law) and *de facto* (structural inequalities)<sup>86</sup>, however, our objective is to develop in the following paragraphs the latter, the structural inequalities that affect the Syrian women refugees in their social and economic rights and the features that make them particularly vulnerable inside the Lebanese context. Furthermore, we will develop the legal conditions under the title of *atypical vulnerability* bellow.

Among the social conditions that create inequalities *vis-à-vis* the refugees, the residency permit represents an issue that increases the effects of poverty among the migrants, as more than 50% of the Syrian householders obtain an income below the Survival Minimum Expend Basket (SMEB)<sup>87</sup>. The average income for a Syrian family is around 422USD<sup>88</sup> in 2016, which has represented an increase compared to the year 2015 where it was around 350USD<sup>89</sup>, yet, it is still a very low income for the householders considering the cost of living in Lebanon and the number of dependents that they usually have.

Even though the 200USD fee for the renewal of the permit is not implemented anymore, only 21% of the refugees non-registered within the UNHCR have secured the residency permits<sup>90</sup>, whereas those who are registered under the UNHCR mandate 78% of them have obtained it as well. We underline that there is a gap between those refugees registered within the UNHCR and those who are not, after the request made by the Lebanese government in 2015 to stop registering refugees.

The lack of residency permit also has exposed the refugees to the fear of being deported to Syria or being arrested by the Lebanese authorities, and 91% of the refugees consider that the legal status has an impact on their perception of safety<sup>91</sup>. In the year 2016, around 50% of the Syrian refugees suffered any kind of abuse (harassment, evictions, raids, insults, among others)<sup>92</sup>, but 72% of them did not notify the authorities<sup>93</sup>. It represents a lack of access to

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<sup>86</sup> Ibid. Paragraph 112.

<sup>87</sup> UNCHR, UNICEF and WFP *Vulnerability Assessment of Syrian Refugees in Lebanon*, p 2.

<sup>88</sup> C. Alsharabati and J. Nammour, *Survey on perceptions of Syrian Refugees in Lebanon Between Resilience and Vulnerability*, University Saint Joseph Political Science Institute, 2017, p. 12/64

<sup>89</sup> Ibid.

<sup>90</sup> Ibid., p. 18/64

<sup>91</sup> Ibid. p. 19/64

<sup>92</sup> Ibid. p. 24/64

<sup>93</sup> Ibid.

justice created by the inhibition of the refugees to notify the authorities for the fear of being either deported or detained. Therefore, the abuses and the lack of access to justice has represented a threat to the Syrian women refugees who have been victims of sexual exploitation regarding their vulnerable conditions, as we will describe bellow.

Another consequence of the lack of a legal status is the inhibition of transit around certain areas of the country where checkpoints are located, bringing on a limitation of the freedom of movement and affecting the population in their daily lives and the access to socio-economic rights such as education and work. In this cases, men are the most affected individuals while moving around the checkpoints, whereas children and women are able to move more freely. Therefore, the lack of a residency permit and the recognition of a refugee status are the main causes of all the social-economic inequalities such as work permits, economic income, fear from being deported, fear from denouncing crimes and access to health care. These consequences can affect specifically the Syrian refugee women under a context of GBV, when they don't have access to justice to denounce sexual abuses and when they need to seek for solutions to earn money in an illegal way in order to cover the living expenses of their family members.

Following the elements mentioned above, we will proceed to analyze the *Atypical Vulnerability* of the Syrian women migrants, identifying *de iure* elements, namely, the perspective of inequalities before the law and discrimination.

### 2.3.-Atypical Vulnerability: Inequalities before the law.

As we have also mentioned before, the Atypical Vulnerability address the inequalities before the law and the violation of the principle of non-discrimination. The Syrian refugee women face a vulnerability in a double standard, based on the gender and the condition of refugee, however, the inequalities before the law consolidates the vulnerabilities previously described.

About the international legal framework, Lebanon has ratified several human rights treaties such as the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). Specifically related to vulnerable groups, has also ratified treaties such as the Convention of the Elimination of All Forms of Discrimination Against Women (CEDAW), Convention of the

Rights of the Child (CRC), Convention on the Right of Person with Disabilities (CRPD). Nonetheless, despite of the fact that has not ratified the Convention Relating to the Status of Refugees of 1951 and the Protocol of 1967, it is obliged by the rest of the international conventions to provide the citizens with the standards of living demanded by their conditions of human beings. The lack of a refugee status cannot be regard as a lack of integral protection by the state receptor of immigrants as soon as it applies correctly the provisions agreed on other treaties.

It is important to highlight that Lebanon has ratified the CEDAW with reservations on articles 9.2 and 16.1 c, d and f related to the right of the women to give the nationality to husband and children, equal responsibilities during the marriage, equality in the parental rights and duties, and equal rights for the custody and tutorship of their children. This element provides us with an understanding of the context explained *ut supra* where we described the existence of a culture of inferiority of women in the society.

All the legal framework, whether national or international, has to be regarded systematically and as an articulated element and the international obligations coming from the treaties, dully ratified, are rules to be adapted in the national legal framework, and this issue represents a hazard for certain countries who apply those rules discretionally instead of assuming them as binding formulas. The gender element and the socio-economic background of the Syrian refugee women, analyzed *supra* referring to the *personal vulnerability* and *typical vulnerability*, respectively, have led us to a primary conclusion: The Syrian refugees suffer the inequality before the law and the violation of the principle of non-discrimination when they are not provided with a proper residency permit which would allow them to have access to justice, work, health and education. Nonetheless, not only the treaties that are ratified have to be respected by the States, and the principle of equality before the law and non-discrimination has been considered as a rule of *jus cogens*<sup>94</sup>. The IACHR has stated that *“Nowadays, no legal act that is in conflict with this fundamental principle is acceptable, and discriminatory treatment of any person, owing to gender, race, color, language, religion or belief, political or other opinion, national, ethnic or social origin, nationality, age, economic*

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<sup>94</sup> Advisory Opinion *Juridical conditions and rights of undocumented migrants* 18/03 Op. Cit., Paragraph 101.

*situation, property, civil status, birth or any other status is unacceptable*<sup>95</sup>. Therefore, even if Lebanon has not ratified the legal instruments for the protection of the refugee status, it is obliged to guarantee that all the measures undertaken by parliament, judges and the administration are based on the principle of equality before the law and non-discrimination.

The residency permit, as we said, represents a challenge for both the authorities and refugees and the lack of a real refugee status of the Syrian immigrants obliges them to renew their residency permit on an annual basis, and so far has been challenging for the Syrian refugees to obtaining. As it has been stated in the US Trafficking Report on Persons: Lebanon, *‘Men, women, and children among the 1.1 million registered Syrian refugees in Lebanon are at risk of sex trafficking and forced labor. Restrictions on Syrians’ ability to work legally in Lebanon, as well as strict enforcement of visas and residence permits, increase this population’s vulnerability to trafficking*<sup>96</sup>.

About the vulnerability and the relation with the legal status, Hayat Mirshad, Head of the NGO FEMALE, said that *‘In Bekaa for example, they have a high rate of forced marriage. They are not protected and they suffer sexual harassment and discrimination because they don’t have a legal status. Imagine that you are a woman migrant coming from a war and then here you don’t have legal protection and you face all this problems, of course you are more vulnerable*<sup>97</sup>. Since the Syrian migratory crisis, Lebanon has toughened the legal framework in detriment of the Syrian refugees, as has been described *ut supra*, stopping the registration of new refugees since January 2015 and applying a criteria of migration that blocks the issuance of new residency permits. This is part of the non-integration policy towards refugees and it discriminates the refugees and locate them in a disadvantaged position before the law.

About the inequality based on gender, we recognize some elements in the Lebanese legislation to have examples about the cultural inferiority and inequalities before the law of the women in the society that affect also the Syrian refugee women: first of all, the nationality law, held by the decision no. 15 of 1925, deprives the Lebanese women to give the nationality

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<sup>95</sup> Ibid.

<sup>96</sup> "Lebanon", in U.S. Department of State, 2017, <<https://www.state.gov/j/tip/rls/tiprpt/countries/2016/258804.htm>> [accessed 7 June 2017].

<sup>97</sup> Hayat Mirshad, Op. Cit.

to their children and husband when marrying a foreign man, implementing the concept of *jus sanguinis* only in the side of the father. There are also several differences among the religious sects when it comes to inheritance, divorce, custody of children, polygamy, among other cases of inequalities that relegate the women to a secondary role in the family and the society. On the other hand, when it comes to the criminal law, there are provisions that decriminalize the rape of the husband committed to his wife when it exists a marriage contract, established in the article 502 of the Lebanese Penal Code<sup>98</sup>. Also, in the case of adultery, the penal code regulates in the articles 487, 488 and 489 more severe sanctions for the women engaged in this crime. There is also a criminalization of the prostitution in the mentioned criminal code which is going to sanction the women and the corrupter but not the client.

Regarding the elements described above, we would like to conclude this section stating that there is inequality before the law and discrimination against women in Lebanon that enhance the cultural inferiority existing in Lebanon and which affects the Syrian women refugees in a disproportionate way due to the fact that most of them do not have access to a proper legal status that enforces the authorities to protect their fundamental rights. On the other hand, there is an inequality before the law and discrimination against the refugees demonstrated with the closed-border policies and the non-integration policy reflected in the lack of issuance of legal residency permits and laws that protect refugees. Both aspects, the discrimination based on gender and the refugee condition are the main causes of the vulnerability of the Syrian women refugee, who are affected integrally for both kind of discriminations. Therefore, we will analyze the intersectionality of gender and refugee in the following part of this contribution.

#### 2.4.- The intersectionality and vulnerability

The concept of “intersectionality” was first addressed by Kimberly Crenshaw<sup>99</sup>, a north American political activist, who described the discrimination suffered by the African American women in the United States, considering the elements of race and gender.

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<sup>98</sup> Lebanese Penal Code issued in 1943 by Legislative Decree N.340. Available in Arabic at: [https://www.unodc.org/res/cld/document/lebanon-penal-code\\_html/Lebanon\\_Penal\\_Code\\_1943.pdf](https://www.unodc.org/res/cld/document/lebanon-penal-code_html/Lebanon_Penal_Code_1943.pdf)

<sup>99</sup> Crenshaw Op.Cit.

The intersectionality can be defined as every discrimination including several factors that interact simultaneously and creates an specific form of discrimination<sup>100</sup>, meaning that the individuals that are subject to several forms of discrimination, such as migrant women and migrant children, do not live the discriminatory experience in a fragmented way<sup>101</sup>. Those elements, women and migrant, are intrinsically related and create a special condition in the person that make them more likely to suffer inequalities.

According to Patricia Collins, *“the term intersectionality references the critical insight that race, class, gender, sexuality, ethnicity, nation, ability, and age operate not as unitary, mutually exclusive entities, but rather as reciprocally constructing phenomena”*<sup>102</sup>. Therefore, having previously defined the three elements of vulnerability, is our aim to analyze the case of the Syrian refugee women under this concept, as we find that there are two elements, namely, gender and condition of refugees, that construct the phenomenon of discrimination against them and, consequently, increase the vulnerable conditions to be victims of sex trafficking.

The intersectionality has been included also in some regional treaties<sup>103</sup>, such as the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (hereinafter Convention Belem do Para), which describes in the article 9 certain conditions that increase the vulnerability of women, such as the status of migrants, refugees or displaced persons<sup>104</sup>.

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<sup>100</sup> F. Rey, *La Discriminación Múltiple, una realidad antigua, un concepto nuevo*, Revista española de Derechos Constitucional, año 28, nro. 84, Madrid, 2008, p. 264.

<sup>101</sup> Case Raja Jawad, by his litigation Guardian, Mohammad Irshad and others v. Her Majesty the Queen [2001] (Court of Appeal for Ontario), Court File no. C31680 paragraph.43

<sup>102</sup> P. Collins *“Intersectionality's Definitional Dilemmas”* Annual Review of Sociology, 2015, Abstract.

<sup>103</sup> A. Zota-Bernal, *Incorporación del análisis interseccional en las sentencias de la Corte IDH sobre grupos vulnerables, su articulación con la interdependencia e indivisibilidad de los derechos humanos*, Eunomia Revista en Cultura de la Legalidad, No. 9, 2015, p. 74

<sup>104</sup> Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women "Convention of Belem do Para", Article 9: With respect to the adoption of the measures in this Chapter, the States Parties shall take special account of the vulnerability of women to violence by reason of, among others, their race or ethnic background or their status as migrants, refugees or displaced persons. Similar consideration shall be given to women subjected to violence while pregnant or who are disabled, of minor age, elderly, socioeconomically disadvantaged, affected by armed conflict or deprived of their freedom.

The development of this concept provides the proximity to a legal solution that can take into account several conditions in the life of the women victims that make them more vulnerable and shall be protected with a legal framework adapted to their necessities. Thus, the Inter-American Commission of Human Rights (hereinafter ICHR) has warned about the different violations that women can face based on gender and other social conditions that increase the discrimination and violence. For example, in cases of indigenous women and girls such as *Ines Fernandez Ortega vs Mexico* and *Rosendo Cantu vs Mexico*, the ICHR described that the discrimination for the reason of gender and ethnicity has consequences in the equal access to justice and health care, and it affects the indigenous women and girls in a disproportionate way<sup>105</sup>. Also, in the case of women migrant, the intersection of several elements such as gender, migration, legal status, age and nationality creates an interdependency of factors that increase the risk of the women to suffer sexual violence, human trafficking for sexual exploitation, GBV, etc<sup>106</sup>.

The discrimination suffered by the Syrian refugees begins because of the conditions of refugee, being obliged to seek for protection in a neighbor country such as Lebanon, where they do not find proper livelihood conditions for their human development and face several social and economic inequalities compared to the rest of the society. Since the migration crisis of 2011 started, they were in a situation of socio-economic disadvantage that required to abandon their homes and fleeing abroad for seeking international protection of their lives and living conditions. Every refugee, despite of the gender and age, are likely to suffer discrimination for their conditions and the delicate position in a new society, where the refugee status is not granted and they are obliged to seek for alternatives for receiving a permit that allows them to work, and in most of the cases they have to remain illegally in the territory, working outside of the legal framework. Nonetheless, the women migrants affront a different level of vulnerability due to gender-based discrimination.

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<sup>105</sup> Zota-Bernal Op.Cit, p. 74

<sup>106</sup> Ibid.

In the case of women, the element of gender is part of the *personal vulnerability*, and the threat towards their conditions increases under a context where the GBV is tolerated and accepted as a cultural element that treats women as inferiors in the society. Therefore, the condition of refugee and women cannot be separated from the analysis and have to be understood as multiple and inseparable factors that have an impact in the daily lives of the refugee women. The condition of refugee, even though affects Syrian refugee men as well, the affection of the women is disproportionate because of the gender elements that have been described. For this reason, is our duty to describe how this intersectional vulnerability might be the consequence of the practices of sex trafficking suffered by the Syrian women refugees, derived from the premise that they suffer a particular discrimination, that locate them in a position of disadvantage related to the male refugees and the rest of the women in Lebanon.

### **3.- Part 2.- Sex trafficking**

#### 3.1 Overview of the issue of Human Trafficking for sexual exploitation.

The Human trafficking has become the third most profitable illegal business worldwide, just behind the drug trafficking and weapons dealing, being a multiple-offensive crime that affects the entire population and mostly the people who are under a particular vulnerability, being the sexual exploitation one of the main purposes of trafficking. According to Scully, the social inequalities between the so-called industrialized and third world countries plays an important role in the current growth of the migratory prostitution<sup>107</sup>, though, men, women and children are targeted by the organized crime, but they are affected differently depending on the gender, under certain context, and the stereotypes that surround the position of men and women in the society, whereas the children are also affected because of the condition of physical and psychological fragility. The international community has set an effort in order to encourage the States to design policies that are able to tackle this issue and, so far, the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and

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<sup>107</sup> E. Scully, *Pre-Cold War Traffic in Sexual Labour and Its Foes: Some Contemporary Lessons*. In *Global Human Smuggling*, edited by David Kyle and Rey Koslowski. London: Johns Hopkins University Press, 2001.

Children<sup>108</sup> (hereinafter referred as the Palermo Protocol) has been an instrument that engage the nations accordingly.

If we take into account only the MENA region, the sex trafficking is an issue that is targeting the most vulnerable population and there has been a notable increase of these practices after the Syrian war, because the Syrian population has entered into a context of extreme vulnerability related to the personal conditions, such as gender and children, economic, social, and also legal, as has been set above. From the cases of human trafficking identified, around 38% of them are related to sex trafficking, being women and children the most affected, and there has also been a shift of the cases among Syrian refugee women which have to be analyzed and tackled regarding their particular conditions in order to achieve a desirable outcome of protection. In 2016 a big network of sex trafficking was dismantled by the Internal Security Force (ISF) in the "super night club" Chez Maurice in Maamelteine, Mount Liban, where 75 women, most of them Syrian, were rescued. Al-Ammar, a human rights activist that followed up the case said that more than 200 abortions were practiced during the confinement<sup>109</sup>.

The US Trafficking report focused on Lebanon describes that *"The Lebanese government and media reported in late March 2016 an extensive sex trafficking ring exploiting primarily Syrian women and girls in Beirut; the majority of the women and girls were fraudulently recruited from Syria with false promises of work and subjected to commercial sexual exploitation where they experienced mental, physical, and sexual abuse and forced abortions"*<sup>110</sup>. Also, some NGOs have reported the cases of sex trafficking of Syrian women. For example, the Freedom Fund in a report from 2016 emphasizes that *"the Syrian refugees*

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<sup>108</sup> Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, Adopted and opened for signature, ratification and accession by General Assembly resolution 55/25 of 15 November 2000. Available at: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/ProtocolTraffickingInPersons.aspx>

<sup>109</sup> "Lebanon shocked over sex trafficking of young Syrian women", in *AP News*, 2017, <<https://apnews.com/72253307caef4863858d659ce6686808/lebanon-shocked-over-sex-trafficking-young-syrian-women>> [accessed 10 June 2017].

<sup>110</sup> "Lebanon", in *U.S. Department of State*, 2017, Op. Cit.

*in Lebanon find themselves in an increasingly desperate situation, struggling to survive and vulnerable to myriad forms of exploitation, including slavery and trafficking*<sup>111</sup>.

Human Rights Watch conducted an interview with two of the victims of the sex trafficking network dismantled in 2016 and they told them that the *“traffickers lured them from Syria with promises of marriage or jobs, but instead forced them into prostitution in the brothel, in Lebanon’s Ma’ameltein red-light district. They said that the alleged traffickers never paid them, regularly beat them, would not let them leave, and confiscated their identification papers and mobile phones*<sup>112</sup>. Amnesty International has created discussions with focus groups, and in one of them, a woman called *“Hanan”* stated that *“A lot of [refugee] women are subjected to assaults, harassment, theft and even rape but can’t present complaints because of their illegal status in Lebanon and being threatened with arrest*<sup>113</sup>.

Other woman, *“Saada”* from Syria, described her experience in Lebanon as follows: *“Just because I am a woman living alone, if I get into a cab, the driver will try to touch me and I will hear a lot of verbal harassment. Most of the time I try not to ask for help from anyone. But sometimes I need help, like with carrying a gas bottle. If I ask any man for help with carrying a gas canister, or any other kind of help, he will indirectly feel like he has the right to interfere in my life*<sup>114</sup>. In that regard, the women householders, not accompanied by men, might be more likely to suffer acts of sexual abuse, and in this sense, Maeva Breau from KAFA made some comments about it: *“Because of the culture, if there is a man in the house they are more protected and are going to be less vulnerable. For example, in the case of the landlords sometimes they ask for sexual favors if the women cannot pay, and it is less likely to happen if they have a man around them. In 2015 they changed the rules for RP and a lot of Syrian lost the legality in the states. In Bekaa and Akkar there were a lot of checkpoints and if you are men you are more likely to be stop, so the women and children have to work*

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<sup>111</sup> The Freedom Fund 2016 Report “Struggling to Survive: slavery and exploitation of Syrian refugees in Lebanon”, 2016, p.5

<sup>112</sup> "Lebanon: Syrian Women at Risk of Sex Trafficking", in *Human Rights Watch*, 2017, <<https://www.hrw.org/news/2016/07/28/lebanon-syrian-women-risk-sex-trafficking>> [accessed 7 June 2017].

<sup>113</sup> Amnesty International “I Want a Safe Place” p.45. in reference to Amnesty International focus group discussion on 8 October, 2015, Mar Elias, Beirut.

<sup>114</sup> Amnesty International “I Want a Safe Place” Op, Cit, p.45. in reference to Amnesty International focus group discussion

*and that makes them more vulnerable to sexual exploitation. They would be alone in a patriarchal society*<sup>115</sup>. This statement represents the GBV that the Syrian women are suffering and it affects them in a disproportionate compared to men.

The sex trafficking can be considered as a modern slavery due to the fact that all the members of the network receive economic profits from the practices of ownership over the women and children. According to Kathleen Barry *“Those strategies play on the woman's vulnerability. When a young woman is made the object of a procuring strategy, she is likely to be a runaway from a home where she was abused, from a marriage where she was battered, or from rural poverty now seeking a better life on her own. Her needs are usually both emotional and economic*<sup>116</sup>, thus, the networks are meant to identify the most vulnerable conditions of the women and children in order to target them and make them join the business, using tactics such as kidnapping, purchasing young girls from their families or husbands, the use of fraudulent employment and artist agencies that promise the girls a wealthy future<sup>117</sup>. Also, there is an element of cultural value that is exploited by the traffickers, and Kathleen Barry states that *“in cultures where dowry and arranged marriages are still practiced, procurers often pose as potential husbands who are willing to pay a family for marriage to their daughters or as labor contractors who promise young girls a job in the city*<sup>118</sup>.

The first human trafficking law in Lebanon was issued in 2011, and has given to the authorities the legal tools to overturn these kind of practices. The police authorities, specifically the Internal Security Forces (ISF) have received training from UNDOC that might allow them to implement correctly the law and, consequently, respond to the international obligation contemplated in the mentioned Palermo Protocol, however, there is a main issue to address when it comes to the implementation of the human trafficking law, which is the relation with the crimes against prostitution located in the Lebanese Criminal Code. In the former, the victim of sexual exploitation is regarded as a victim of the organized

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<sup>115</sup> Maeva Breau, Op. Cit.

<sup>116</sup> K. Barry, *Female Sexual Slavery: Understanding the International Dimensions of Women's Oppression* Human Rights Quarterly, Vol. 3 No. 2, The John Hopkins University Press, 1981, p.46.

<sup>117</sup> Ibid.

<sup>118</sup> Ibid. p 47.

crime, whereas in the latter, the victim of sexual exploitation is taken as a criminal and, thus, imprisoned or deported, depending on the case.

### 3.2.- International and National legal framework about Human Trafficking.

The Palermo Protocol<sup>119</sup> is the first international legally binding instrument aimed to tackle specifically the issues concerning human trafficking, and it is a complementary tool of the United Nations Convention against Transnational Organized Crime, which has to be interpreted in relation with the latter. This has been the first intend to draft an instrument that could be able to engage the States parties to prevent, investigate and prosecute effectively the cases of human trafficking, especially of women and children, who are constantly affected in a disproportionate way. The Palermo Protocol defines the obligations of preventing trafficking, punishing the traffickers and protecting the victims of trafficking, depending on their situation *vis-a-vis* the crime, namely, establishing different considerations whether they are a country of origin, transit or destination.

The article 3 of the Palermo Protocol defines the human trafficking as *“the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs”*<sup>120</sup>. In the second part of the article 3, the Protocol establishes that the consent of the victim under one of the practices referred in the first part of the article 3 should be considered irrelevant, and this provision can be considered a progressive asset that needs to be taken into account by the authorities when facing a case of human trafficking.

The Palermo Protocol also defines in the article 6 the policies that should be undertaken by the states in order to guarantee the physical and psychological integrity of the victims of

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<sup>119</sup> Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, Op. Cit.

<sup>120</sup> Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, Op. Cit.

trafficking<sup>121</sup>. However, there is also a regulation concerning the repatriation of the victims in the article 8.1 establishing that *‘The State Party of which a victim of trafficking in persons is a national or in which the person had the right of permanent residence at the time of entry into the territory of the receiving State Party shall facilitate and accept, with due regard for the safety of that person, the return of that person without undue or unreasonable delay’*<sup>122</sup>. Whereas the article 8.2, establishes that *‘When a State Party returns a victim of trafficking in persons to a State Party of which that person is a national or in which he or she had, at the time of entry into the territory of the receiving State Party, the right of permanent residence, such return shall be with due regard for the safety of that person and for the status of any legal proceedings related to the fact that the person is a victim of trafficking and shall preferably be voluntary’*. Even though the former provisions establish that the States parties have the authority to repatriate the victims of human trafficking to the countries where they are nationals or permanent residents, those have to be interpreted jointly with the principle of non-refoulement, part of the customary law, and considering the refugee status based on the fear that the victims might have to return to their home countries due to either personal persecution or a context of armed conflict, as is the case of the Syrian refugees.

The ICCPR, the American Convention of Human Rights (hereinafter ACHR), the European Convention of Human Rights (hereinafter ECHR) and the African Charter of Human and People’s Rights (hereinafter ACHPR) do not make specific reference to the human trafficking as a violation of human rights, however, the Council of Europe in its explanatory report on the Convention on Action against Trafficking in Human Beings has pointed out that the human trafficking shall be considered as *‘the modern form of the old worldwide slave trade. It treats human beings as a commodity to be bought and sold, and to be put to forced labour, usually in the sex industry...Most identified victims of trafficking are women’*<sup>123</sup>. Observing the comments of the Council of Europe, the European Court of Human Rights has developed in its case law the inclusion of human trafficking as a violation of the prohibition of slavery and forced labour established in the article 4 of the ECHR and the court has also stated that the offence of this crime is not confined to a domestic arena and

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<sup>121</sup> Ibid.

<sup>122</sup> Ibid.

<sup>123</sup> Council of Europe Explanatory Report on the Convention on Action against Trafficking in Human Beings CETS no. 197 paragraph 3.

the victims can suffer abuses in the country of origin, transit and destination<sup>124</sup>. The court has also said that the authorities are not only obliged to investigate the crimes of human trafficking and to punish the traffickers, but they are also obliged to seek for a cross-border cooperation between the neighbor countries in order to create a system of prevention<sup>125</sup>.

Lebanon has ratified the Palermo Protocol on October 5<sup>th</sup> 2005 and, since then, it has entered into force for the country creating all the international obligations disposed by the instrument, which implies the further adoptions of policies to protect the victims such as preventing the crime and investigating and punishing the traffickers. Later on, in 2011, the Lebanese parliament has issued the Law 164 relating to the Punishment for the Crime of Trafficking in Persons, which has been the first instrument engaged to tackle the cases of human trafficking in the country. The article 586.1 basically reproduces the concept of human trafficking adopted by the Palermo Protocol and also refers to the irrelevant consent of the victim. In the case of the victim, the article disposes that *‘a victim of trafficking means any natural person who was the subject of trafficking in persons or who is reasonably considered by the competent authorities to be a victim of trafficking in persons, regardless of whether the perpetrator of the crime [of trafficking in persons] was identified, arrested, tried, or convicted’*<sup>126</sup>. In the case of the reasonably consideration of the victim regardless the identification of the perpetrator, we will discuss further the reason why this element has played an important role on the qualification of the Syrian refugee women as criminals of prostitution or victims of human trafficking.

For the punishment of traffickers, the law establishes penalties that varies according to the degree of affection on the victim that goes from 5 to 15 years of imprisonment, which can be considered an improvement of the penalty disposed for traffickers in the Lebanese Criminal Code, where the trafficker received the same penalty of the victim of sexual exploitation.

Also, the Internal Security Force of Lebanon (ISF) has created in 2014 the Department of Human Trafficking, currently directed by the Colonel Johnnie Haddad which whom we had the opportunity to conduct an interview and who opened the discussion stating that *‘Human*

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<sup>124</sup> Case Rantsev v. Cyprus and Russia [2004] (European Court of Human Rights), paragraph 289.

<sup>125</sup> Ibid.

<sup>126</sup> Law 164 Punishment for the Crime of Human Trafficking, article 586.1

*trafficking has increased in Lebanon due to the Syrian crisis – over 2 million are here under terrible conditions; so they become victims of human trafficking significantly more than others*<sup>127</sup>.

When we asked him about the role of the police and the government tackling the crimes of human trafficking, he then answered *‘‘first the law I told you about [referring to the Anti-Trafficking Law of 2011] – and changing the office here [the Human Trafficking Department]. Also they [authorities] created shelters for the victims with civil society organizations. And they created a protocol between these organizations with the shelters and Ministry of Social Affairs for the reception of the victims of human trafficking. There was also a private box created by the Ministry of Social Affairs where all the money confiscated coming from human trafficking is placed in it. This money is used to treat the victims of human trafficking. This was created due to the law that demands this*<sup>128</sup>. We have confirmed the existence and the correct operation of these shelters with the NGOs KAFA and ABAAD, who explained us about their role, the collaboration of the government in the creation of the centers and all the assistance that the victims of human trafficking usually receive there. We will further explain the role of the NGOs and how the victims are treated.

About one of the most detected *modus operandi* that harms the Syrian women refugees, Colonel Haddad describes the early marriage as one of the first steps towards the trafficking for sexual exploitation. Commonly, the girls get married in Syria and then are brought to Lebanon and the husband *‘‘either get them the job or delegates them to someone else in exchange for either monthly cash or by sharing a percentage (30-50 percent) and they start exploiting them in prostitution. So they get exploited inside Lebanon*<sup>129</sup>. Moreover, we were interested to know about the procedure implemented by the police to identify and dismantle the clandestine brothels where the women are exploited, which it seems to be as follows: *‘‘Someone calls and tells us there is a network of prostitution in Beirut, for example. First we send someone off to make sure that it is true. Then we try to send a citizen as a customer there (who is an informant to the police) to see how it’s like inside – how they’re working,*

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<sup>127</sup> Johnnie Haddad, Head of the Human Trafficking Department ISF, Interviewed on the 10th of April 2017, Human Trafficking Department of ISF, Hamra, Beirut, Lebanon.

<sup>128</sup> Ibid.

<sup>129</sup> Johnnie Haddad, Op. Cit.

*how are they dealing and going out with the women, if there is an order to outside, to a hotel or inside the same place*<sup>130</sup>.

Colonel Haddad also mentioned that all the procedure has to be strictly managed in coordination with the prosecution: *“We make sure of this procedure, then we contact the public prosecutors and explain all the indicators. In every province, there are specialized public prosecutors. In Beirut, we take a signal from them for example, then we gather the military needed and we go to the spot. We get them to the police station and we start the investigation. But all of this process happens under the conditions of the public prosecutors. So the prosecutor is with us throughout every step hearing it*<sup>131</sup>.

In the year 2014, the Lebanese Ministry of Justice declared that the trafficking for sexual exploitation was the second most common practice of human trafficking related to the quantity of victims<sup>132</sup>. According to ICMPD, from data provided by the ISF, during the years 2011 and 2012 the police identified 54 victims of human trafficking<sup>133</sup>, numbers that correspond only to the human trafficking for sexual exploitation<sup>134</sup>.

Colonel Haddad kindly provided us with some relevant data about the number of victims and detainees from cases of human trafficking. In the year 2015, the number of victims of human trafficking were up to 19, being the Syrian nationality the first category of victims with twelve, followed by the Lebanese, Palestinians and Moroccans, each one with two, and Jordan with one. The number of detainees from the same year was twenty-seven persons, fifteen of them Lebanese, eleven Syrians and one Jordanian<sup>135</sup>.

In 2016 the amount of victims scaled up to eighty-seven, being the major nationality the Syrian with eighty-two, two Palestinians, two Lebanese and one unknown. The explanation of the increase of the number of victims in the data base was because of the dismantlement

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<sup>130</sup> Ibid.

<sup>131</sup> Ibid.

<sup>132</sup> ICMPD, *Targeting Vulnerabilities*, Op. Cit. p. 139

<sup>133</sup> Ibid., p. 136

<sup>134</sup> Ibid., p. 139

<sup>135</sup> Johnnie Haddad, Op. Cit.

of the criminal organization in Jounieh, in the brothel Chez Maurice, where 75 Syrian women were rescued by the authorities.

We had the opportunity to share the data with Maeva Breau, the person in charge of the human trafficking in KAFA, who had the following appreciation: *“In 2016, there are 82 victims and is because a network was dismantled, but the number is very low compared to the reality and is because the prostitution law considers women as criminals and not as victims. We only have access to the victims that are in the shelter. We are sure that in the Bekaa there are a lot of victims of sex trafficking and nobody is taking this subject in the field because is very risky. Basically at the end we don't receive victims of prostitution unless that the police decide that they are victims of trafficking and not because they wanted to be prostitutes. They consider that the woman is a criminal and will be arrested and they won't investigate why she became a prostitute”*<sup>136</sup>.

According to this statement, we can consider one important element that represents a challenge for the authorities, which is the coexistence of the Anti-Trafficking legislation and the prostitution crimes regulated in the Lebanese Criminal Code, because the application of one or another has a great impact in the consideration of the woman exploited as a victim or a criminal, with all the legal consequences that it implies. Also, the element of the consent of the victim should be irrelevant according to the Palermo Protocol, and we think that applying the Lebanese Criminal Code assumes the consent of the victims as valid.

When we tried to investigate whether the anti-trafficking law was sufficient or not to tackle the issues of human trafficking that have been constantly harming the Syrian women, Colonel Ziad Kaed Bae, Director of the Training Department of the ISF and lecturer in the Human Trafficking field, stated that the problem was not the lack of legislation, because, according to his opinion, the human trafficking law 164/2011 fulfills the required elements to punish the aggressors<sup>137</sup>. However, the problem of the law seems to be its application and the capacity of response of the police to tackle the amount of cases of trafficking. We corroborated the information with Colonel Kaed Bae when he declared that *“we are dealing*

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<sup>136</sup> Maeva Breau, Op. Cit.

<sup>137</sup> Ziad Kaed Bae, Head of the Training department of the ISF, Interviewed on the 28th of march 2017, Training Department of the Internal Security Forces, Achrafieh, Beirut, Lebanon.

*with this issue on a case by case basis, with coordination with the prosecution. The police do not have capacity to tackle this issue because of the lack of resources*<sup>138</sup>. To conclude, he emphasized that *‘‘We (Lebanon) need the international community to take responsibility as well, is not easy, UN should provide support. We have lack of budget, over population, etc.*<sup>139</sup>. We consider that the information of the lack of capacity of response of the police is valuable when it comes from the director of the Training Department of the Police, and it is another element that can be related from the lack of funding coming from international actors.

### 3.3.- The prostitution in Lebanon

The prostitution has been subject to several multidisciplinary debates including moral, legal and politics. That is the reason why in the compared legal framework about prostitution worldwide, we can find three types of legislations: prohibition, legalization and decriminalization<sup>140</sup>. Depending on the type of legislation adopted by the States, the results are going to be quite different in relation to the victim of sex trafficking. The prohibitionist system relies, logically, in forbidding the prostitution as a whole, which is also related to the abolitionist system, where the sell and purchase of sex is allowed but not the sexual exploitation. The legalization of the prostitution implies its acceptance under certain regulations related to licenses, registrations and health checks that creates a legal system able to control it, and every activity outside the system would be punished. Last but not least, the decriminalization system adopts the comparison of the prostitution to any other legal business following the rules of the economic market, namely, supply and demand<sup>141</sup>.

Lebanon has adopted a legalization system, or apparently formally, adopting regulations that oblige the ‘‘super night clubs’’ to ask for licenses to pursue the ‘‘economic activity’’ based on the control of the women worker and the supply of the client’s demand. However, since 1970, the government has stopped the issuance of licenses to clubs and any other activity outside those provisions cannot be considered no longer to fall within the legalization

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<sup>138</sup> Ibid.

<sup>139</sup> Ibid.

<sup>140</sup> M. Lehti and K. Aromaa, *Trafficking for Sexual Exploitation*, Crime and Justice, Vol. 34 No.1 The University of Chicago Press, 2006, p.134.

<sup>141</sup> J. West, ‘‘Prostitution: Collectives and the Politics of Regulation. ‘‘In *Prostitution*, edited by Roger Matthews and Maggie O’Neill, 2003, Wiltshire: Ash gate.

system<sup>142</sup>. The women who are taken to “work” in the night clubs, normally have entered into the country with an “artist visa” that allows them to work only in the night club who provided the sponsorship and forbids them to leave the hotel where they are being hosted and are only allowed to go out during working hours<sup>143</sup>. Moreover, the passport is retained by the employer who keeps the movement control of the women, that are constantly under threat because of the fact that they are in a foreign country and under the control of an individual who practices the right of ownership on them. These kind of practices have been confirmed by the Benjamin Zand, journalist of the BBC, who produced a documentary film called “Pimps, Prostitutes and Refugees”<sup>144</sup>, about the situation of the prostitution in Lebanon, and stated that he has receive by email an information of the ISF explaining that the women under the status of “artist visa” have to be locked in their hotels from 5 am until 1 pm for “security reasons”<sup>145</sup>, however, he tried one day at 1pm to access the hotel where the prostitutes were hosted, but he couldn’t see any woman going out from it, so the “curfew” could presumably be permanent rather than temporary. What we can conclude from this practices is that it happens under the acquiescence of the police, and this issue enforces the practice of modern slavery where the victims of trafficking are unavoidably involved.

Amnesty International, Human Rights Watch, the Freedom Fund and ICMPD have reported from direct sources several cases of Syrian refugee women who have been victims of sexual exploitation in the “super night clubs”. According to the Freedom Fund, the sex industry in Lebanon includes around 130 “super night clubs” which are brothels where the women are exploited. Apparently, the issuance of the Artists Visas has stopped and several Syrian women have been obliged to join the sex industry to fill the gaps left by other women, who used to be eastern Europeans and Africans<sup>146</sup>.

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<sup>142</sup> "Prostitution is legal in Lebanon, but the lack of licenses leads to charges of exploitation", in *MinnPost*, 2017, <<https://www.minnpost.com/global-post/2010/06/prostitution-legal-lebanon-lack-licenses-leads-charges-exploitation>> [accessed 7 June 2017].

<sup>143</sup> "Lebanon", in *U.S. Department of State*, 2017, Op. Cit.

<sup>144</sup> "Pimps, Prostitutes and Refugees, Lebanon Stories - BBC News Channel", in *BBC*, 2017, <<http://www.bbc.co.uk/programmes/p04xl7ql>> [accessed 7 June 2017].

<sup>145</sup> Ibid.

<sup>146</sup> The Freedom Fund, *Struggling to Survive: Slavery and Exploitation of Syrian Refugees in Lebanon*, p.13 available at: <http://freedomfund.org/wp-content/uploads/Lebanon-Report-FINAL-8April16.pdf>

Disregarding the fact that the prostitution is formally legal in Lebanon, the Lebanese criminal Code limits its practices and punishes the illegal practices that involve the "prostitute" and the "pimp" in the article 523 in the following form: first, any person who practices secret prostitution or facilitates it shall be sentenced to imprisonment from one month to one year. and second, any person who earns his life or some of it, from the prostitution of others shall be sentenced to imprisonment from six months to two years. The first penalty corresponds to the criminalization of the woman or man that practices the prostitution outside the legal system that has been established in Lebanon, which includes the provision of licenses for the "super night clubs" and the registration of the prostitutes. Thus, the criminal law considers the prostitute as a criminal rather than a victim and is subject to criminal responsibility when is caught practicing on the streets or illegal locations.

On the other hand, the second penalty is addressing the trafficker, the one who exploits the women, commonly known as the "pimp", who can be sentenced to imprisonment for a maximum of two years. We would like to underline the following elements of the mentioned legislation: in first place, the prostitute is considered as a criminal, and such consideration does not identify the deep reasons why that practice is being perpetrated, which will be commonly the sex trafficking that is behind. The second element is that the "pimp" used to receive almost the same penalty compared to the victim, but after the anti-trafficking law 164/2011 imposes higher punishment for these criminal conducts.

### 3.4.- The application of the Anti-trafficking law or the Lebanese criminal code

One of our findings throughout the research, as we have previously mentioned, was related to the victimization or criminalization of the prostitution in Lebanon. This is one of the main problems for tackling the issue, according to Maeva Breau from KAFA, when she described the prostitutes as victims<sup>147</sup>.

The anti-trafficking law regards the women or men involved in it as victims and only criminalize the trafficker who is the perpetrator of the crime of trafficking. This is an advance after the year 2011, when Lebanon adopted the legislation and started to apply the standards contained in the Palermo Protocol. On the other hand, as we explained, there is also a

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<sup>147</sup> Maeva Breau, Op. Cit.

criminalization of the practice of prostitution in the criminal code which is going to sanction the women or the men who practice secretly the prostitution, whereas it also punishes the “pimp” who obtains the economic benefit of the exploitation. In our interview held with Colonel Johnnie Haddad, Head of the Human Trafficking Department of the ISF, he explained that the application of both laws have been a challenge for the police as there is a big margin of discretion of the authorities when considering a woman as a victim or as a perpetrator<sup>148</sup>. He stated that once the prostitutes are caught, then the investigations are going to define which law is applicable to the case, but it depends on a case-by-case basis<sup>149</sup>.

This difference on the application of the two types of legislation defines the way the prostitute is treated before the law and it becomes a key element for tackling the issue of sex trafficking. However, in our opinion, if we take into account the irrelevant consent of the victim established in the Palermo Protocol, there should exist a legal presumption that all the prostitutes that are caught by the police either on the streets or in unlicensed places are victims of trafficking, because the prostitution cannot be regarded as an isolated issue and as voluntary profession but rather as a consequence of a systematic socio economic background of inequality that affects disproportionately the women because of the personal conditions, and in most of the cases it belongs to a network that receive profits from the exploitation. Under certain conditions, if there is not strong evidence of the existence of the trafficking, namely, identifying the trafficker, the prostitute will be considered as criminals for practicing the secret prostitution and condemned to imprisonment because it is assumed that she or him gave her consent, worsening the personal conditions that led her or him to become part of the system.

First of all, the discretion that exists in the application of the law might not be efficient regarding the context of cultural inferiority of the women in Lebanon and, secondly, the criminalization of the prostitution might be an obstacle in the application of the standards declared in the preamble of the Palermo Protocol, which affirms that the States are obliged to undertake effective actions to prevent and combat the crime of trafficking, and also, more important, the protection of the victims. Is also relevant to consider that, even though this

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<sup>148</sup> Johnnie Haddad, Op. Cit.

<sup>149</sup> Ibid.

dilemma of application of laws is still existing, the Syrian refugee women in Lebanon are not benefiting from its application and *“when the refugee calls the police station, the personnel ask her whether her family had paid for residency or not”*<sup>150</sup>.

For the Syrian refugee women, the application of the law is going to define the treatment, and we have to say that the discretion in the application of this legal measures does not provide legal security and does not consider their vulnerability and the fundamental causes of practicing prostitution.

### The demand of prostitution

The BBC in the documentary *“Pimps, Prostitutes and Refugees”*<sup>151</sup>, where Tony Hanna, owner of *“Voodoo”* one of the biggest *“super night clubs”* in Lebanon, and who openly refers to himself as the most famous pimps in the country, stated that *“there is a perfect girl for every man, not smart, but beautiful”*<sup>152</sup>. The opening of the analysis of the demand on prostitution has to be finally opened and to be considered as part of the structural Sexual Gender Based Violence that affects women in general, and particularly those who are vulnerable because of several conditions. It is worth to analyze the behavior of men towards the prostitution and the knowledge that they have about the sex trafficking, because they participate in the system of exploitation as active actors or consumers, whose demand is encouraged to be satisfied by the networks, who find in the most vulnerable context the necessary supply for the business.

The prostitution has been constantly and ineffectively tackled from the side of the supply, where the victim and the trafficker are seen as the main actors of the equation, however, there is one element that has not been regularly considered in most of the legislations, which is the demand of the prostitution. We believe that the fact that it has not been tackled from that perspective, among many other issues, has a strong link with the patriarchal and men-centered societies. The stereotypes in the prostitution place men as *“clients”* and not as co-responsible of the maintenance of the system while the purchase of sex has been historically

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<sup>150</sup> L News & E loopholes, "Experts dissect domestic violence law loopholes", in *The Daily Star Newspaper - Lebanon*, 2017, <<http://www.dailystar.com.lb/News/Lebanon-News/2017/Mar-09/396706-experts-dissect-domestic-violence-law-loopholes.ashx>> [accessed 7 June 2017].

<sup>151</sup> "Pimps, Prostitutes and Refugees, Lebanon Stories - BBC News Channel", Op. Cit.

<sup>152</sup> Ibid.

accepted, because of *“the biological male need for sexual intercourse is potent and uncontrollable”*<sup>153</sup>, as Samarasinghe says.

The side of the demand has to be explored in order to have an idea of the root causes of the prostitution, and we agree with Tiefenbrum when she states that the problem of sex trafficking has to be approached with an economic perspective<sup>154</sup> because it responds to the rules of supply and demand and the figure of modern slavery, where the trafficker holds the ownership of the victim. We could say that there is not supply without demand, and the economic interest that is behind the traffickers to satisfying the demand elaborates the chain of profit that is built upon the business, which usually incorporates intermediates, victims, pimps and client. The targeted women are, of course, those who are found in impoverished social and economic situation.

The NGO KAFA has elaborated a survey, where 55 men of ages from 22 to 44 were interviewed about the demand of the prostitution in Lebanon. We will use to analyze the features of the demand and the existing legislation aimed to tackle it. According to Maeva Breau from KAFA, *“The sex buyer should be criminalized and not the prostitute. The only choice for you as a woman is going to prostitution and most of the times you have someone behind you, you need someone to push you into this because the women themselves don’t decide one day to go to the streets and work on prostitution. Adopt the same kind of law than France and Sweden where women are victims”*<sup>155</sup>. While reviewing the report, we found some astonishing statistics that we would like to underline: 50 % of the men buyers were aged between 22 and 29 years old; 42% of the buyers have been with more than 50 prostitutes in their entire lives; the ‘super night clubs’ were the favorite places for practices the sexual encounter, followed by prostitution bars, massage parlors, in-house brothels, prostitution through phone order and street prostitution. They declared to have paid an average price of 100 USD, but normally the encounters cost between 20USD and 450USD. Also, according to the survey, 80% of the men declared to be aware of the previous socio economic conditions of the women; 82% of the men interviewed declared to be aware of the fact that the women

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<sup>153</sup> V. Samarasinghe, *“Confronting Globalization in Anti-Trafficking Strategies in Asia”*, Brown Journal of World Affairs, Vol. X, 2003, P.10

<sup>154</sup> Tiefenbrum, Op. Cit., p.201.

<sup>155</sup> Maeva Breau, Op. Cit.

were under the control of a pimp and 61% declared to be aware of the sexual exploitation and the violence against women.

In our opinion, the most important part of the report was the men's justification for using prostitution in which 52% of the men declared that having sexual encounters with prostitutes represents part of their 'natural right' of satisfying sexual needs. While others declared that the prostitution was easily accessible and convenient, and others declared to seek variety in the sexual encounters. These justifications represent an important sample of the cultural position of women in the society, and how the sexual violence is taken by men as part of a normal behavior. When men practice the act of prostitution, the women are subject to sexual violence, because first of all, there is not consent in the act, even though it appears to be that way, secondly, the women have to satisfy the buyer in any of their demands, which might include practices that can harm their physical and psychological integrity.

Currently, in Lebanon there is not a law that tackle the problem of the demand, only in cases of minors. But in this case, the effective way to tackle the issue of the demand might not be punishing the men, but is something more attached to the culture and how the male is raised. Is more a matter of consciousness that has to be encouraged throughout the early education of the infants.

### 3.7.-The shelters for victims of Sexual Gender Based Violence created by the NGOs

In our aim to investigate the work that has been done by some local NGOs for protecting the victims of sex trafficking we conducted several interviews with them. In our first interview conducted with Saja Michael, Sexuality and SRHR Program Manager from ABAAD, we asked about the role of the local NGOs with the cases of human trafficking that have been increasing. We received the information of the existence of three shelters that have been created by the NGOs ABAAD, KAFA and CARITAS LEBANON, in order to host the victims of GBV. She stated that the aim of this shelters is to provide accommodation for the victims, in a safe place, where they could also provide psychological support, legal advice and medical assistance<sup>156</sup>. She described also to host women victims of sex trafficking, domestic violence, rape and other kind of abuses. We also asked specific information to

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<sup>156</sup> Saja Michel, Sexuality and SRHR Program Manager from ABAAD, Interviewed on the 13th of march 2017, Headquarters of ABAAD, Furn el-Chebak, Beirut, Lebanon.

Roula Masri from ABAAD, about the functioning of the shelters and the support that they receive from the Lebanese Authorities, while she argued that the shelters *‘provide treatment to victims of sexual violence. Some of these women didn’t want to stay in these centers and they have left with their family members. We have women survivors of prostitution as well... There is a coordination with the government and we rely on partnerships with international organizations in order to fund. The **government does not give financial support for the shelters**’<sup>157</sup>. In that sense, we think that is the responsibility of the government to fund the functioning of the shelters because of the fact that are victims that fall within the duty of guarantee of the State and it should provide the necessary means to guarantee the non-repetition and the reparation of the victims.*

We wanted also to identify a profile of the victims that are hosted in the shelters, and Maeva Breau from KAFA provided us with the following information: *‘We receive victims of any age. We have cases also of a victim who is now 19 but entered into prostitution when she was underage. Is very rare that a woman of 30 years old would do that. Most of the time the prostitutes that we see on the streets they enter prostitution when they were 14-15 years old. From these network in Syria they were promised to work in bars or restaurants and then they came into this’<sup>158</sup>. Also we asked her about the cases of ‘survival sex’, namely, the women that are not victims of the sex trafficking but are obliged to seek the practices of prostitution to earn money to support their families, and she stated that *‘We have 10 cases like this. Most of the women who go in prostitution voluntarily have suffered before certain kind of abuse, like violation. There are studies which show 60 or 70% of prostitutes were victims before of sexual violence at some point. The social conditions are very difficult and not any woman would be ready to go into prostitution’<sup>159</sup>.**

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<sup>157</sup> Roula Masri, Op. Cit.

<sup>158</sup> Maeva Breau, Op. Cit.

<sup>159</sup> Maeva Breau, Op. Cit.

## 4. Conclusions

The experience of the migration issues in Lebanon has not been satisfactory for the refugees due to the existence of a non-integration policy, reflected originally with the Palestinian refugees and which has been sustained until nowadays combined with a closed-border policy after the migration crisis of 2011 vis-à-vis the Syrian refugees. These policies have been reflected nowadays in the abstain of the Lebanese authorities to provide a legal status that allow the Syrian refugees the enjoyment of the civil, political and socio economic rights. Therein, the residency permit functions as a formal pre-requirement for the enjoyment of the fundamental rights because it implies the access to work and social security, which also encompasses the right to work under proper conditions as well, the access to justice and due process in order to denounce crimes committed against them and to receive a proper remedy and the freedom of movement without fear and access to health and education. It is paradoxical that these set of rights, inherent to the human dignity, depends on a legal formality that is managed discretionally by the government on discriminatory bases.

Taking into account those elements, the Syrian refugee women, which we define as a vulnerable group, have been particularly affected because of the lack of a proper legal status and are living in undesirable conditions, linked with the existence of a context of gender inequality in the Lebanese society.

Based on the elements of the vulnerability analyzed in the second chapter of this paper, we have the following considerations:

In the case of the personal vulnerability we have found the elements of the cultural inferiority of the women in the Lebanese society and the cases of GBV that have been reported by women and how this context has affected particularly the Syrian women refugees. We would like to emphasize that the integrity of the Syrian women is under threat because of the context of violence and cultural inferiority of the women in the society, also encouraged by the fact that they don't have a residency permit and the access to justice is limited because of the fear of being deported. Also, the enjoyment of all the fundamental rights prescribed by the

Lebanese and international legal framework are under threat and must be taken into account by the government with especial attention of the causes of the vulnerability.

In the case of the typical vulnerability, we argued that there are economic consequences derived from the lack of a residency permit, such as the impossibility to work legally and be protected from unappropriated working conditions. The consequence of this fact is that the women do not count on proper living conditions and economic resources to support their family member and have been constantly impoverishing. Thus, the poor economic conditions and the context of GBV and cultural inferiority of the women in Lebanon creates a double standard of vulnerability that implies a threat for these women, who have been constantly suffering several kind of abuses such as harassment, rape, sex trafficking and domestic violence, just to mention few of them.

In the case of the Atypical vulnerability, which defines the inequality before the law and the discrimination suffered by certain groups, we have found that there is a gender inequality before the law that position the women in a secondary role in the society, and the refugee status has not been granted by the authorities, nor a legal residency permit, making a double standard of discrimination before the law relegates the Syrian women to poor and unprotected conditions that increase their vulnerability.

The analysis of the theory of the intersectionality allowed us to define the multiple discrimination that the Syrian women refugees are suffering based on the gender, the refugee condition and the inequalities before the law. The theory of the intersectionality has been widely developed in order to identify groups who suffer several kind of conditions that threatens their basic human conditions, and we think that it is the cases of the Syrian women in Lebanon, whose gender conditions, under a culture based on the inferiority of the women and the cases of violence directed to them, jointly with the refugee conditions, make them suffer a structural discrimination that can explain the reasons why they have been targeted by the organized crime for reasons of sex trafficking.

On the other hand, we believe that the vulnerability of the Syrian women refugees, undoubtedly, locate them in a position of disadvantage in the society and are thus targeted by the organized crime that is seeking for women for purposes of sex trafficking and earn profits from the further sexual exploitation. As we have set above, in the data provided by the department of Human Trafficking of the ISF, the majority of the victims of sex trafficking are Syrian women, and that data cannot be considered as a coincidence but rather as a consequence of the structural inequalities that they have been facing for reasons of gender and their condition of refugee.

About the policies and laws adopted by the government vis-a-vis the vulnerability and the cases of sex trafficking we have identified the following features:

Even though the Ministry of Refugees Affairs was created, they have no budget to create policies, and that lack of structured policies for the refugee situation and the non-integration policy is still blocking the integration of the refugees in terms of issuance of residency permits and granting the protection of their fundamental rights.

Despite of the efforts of the State adopting the anti-trafficking law from 2011 and the Human Trafficking Department of the ISF, the police apparently does not count with the necessary means to tackle the issue and the number of unknown victims might be higher than those reflected in the statistics that have been kindly provided to us.

In relation with the legal elements that rules the prostitution in Lebanon, we can mention the following:

The prostitution in Lebanon is legal, at least formally, and the State is in charge of the regulation of all the elements that compose the network such as providing licenses for the "super night clubs", but according to certain sources mentioned above, those have not been provided since 1970 and there are undercover or illegal operations. These "super night clubs" bring women from abroad with the so-called "artist visas", but they are, in reality, in a situation of legal slavery that restricts their freedom of movement to the minimum expression and make them dependents of the "sponsor" who brought them here, who also confiscate their documentation. Unfortunately, this practices are happening under the

acquiescence of the ISF. Nonetheless, the amount of ‘‘artist visa’’ provided by the government has been decreasing and we have found opinions that affirm that the lack of supply of women for these night clubs are being filled by the Syrian women.

Notwithstanding, it worth mentioning that the illegal practices of the prostitution are punished by the Lebanese Criminal Code, so the trafficker and the prostitute become criminal according to those standards and are subject to almost the same penalty. On the other hand, based on the anti- trafficking law, the prostitute is not punished but only the trafficker. In our conversation with the Head of the Department of Human Trafficking of the ISF, he mentioned the problem of the application of both laws, because it depends on a case by case basis and the proves collected. According to the Lebanese Penal Code, the prostitute is a criminal subject to imprisonment, whereas the anti-trafficking law regards her as a victim, and this double standard is applied by the authorities discretionally and they are taken as criminal unless they discover that she has been victim of sexual exploitation. The consequence of regarding a prostitute as a victim or as a criminal relies on the treatment that they receive from the authorities, because are mistreated women who need psychological and legal support rather than imprisonment. It is necessary a legal solution for the application of both laws and we think that two legal remedies could be applied: first, the ideal one, decriminalizing the practice of the prostitution by women and only punishing the trafficker.

The second one, it could be stablishing a legal presumption *iuris tantum*, based on the principle of the irrelevant consent of the victim, that considers the women as victims unless that is proved that she is exercising the prostitution *motu proprio* and has not been exploited. The latter, we consider that could be a provisional measure meanwhile the decriminalization is definitively adopted, as the ideal scenario, because it does not integrally protect the women but at least they will be treated as a victim since the beginning and is able to receive the necessary medical and psychological support.

In relation with the demand of the prostitution, we have arrived to the following conclusions: We believe that the cultural elements of the society locate women in an inferior position vis-à-vis the men, and it have a fundamental role in the demand. The demand is not considered

in Lebanon, at least in a legal perspective, and we think that it is one of the main elements that boost the likelihood of sexual exploitation because there is a sexual demand that is going to be converted into economic profits by the traffic networks, so this element cannot be subtracted from the equation of the sex trafficking. As the demand is going to exist, we believe that the authorities should overturn this practice through educational measures that create conscience in the population, particularly among men, of the reality of the sex trafficking and the how the women suffer the sexual exploitation. In the case of the legal measures, we believe that criminalizing the purchase of sex can be part of the solution, but it shall be jointly tackle with education programs and campaigns that create awareness and a moral standard in the society that create equality among men and women.

The role of the NGOs, has been very important to identify the cases of sex trafficking and the GBV against women, and they are giving especial attention to the Syrian women refugees due to their situation of vulnerability. Their role can be described as follows:

They have denounced cases of sex trafficking and GBV while receiving information from discussion groups composed by Syrian women from different communities, describing all the features of the abuses that they have suffered once they fled into Lebanon. Also, from these data collection, International NGOs such as Amnesty International, Norwegian Refugee Council, Human Rights Watch, International Rescue Committee and the Freedom Fund have made reports trying to create awareness of the vulnerable conditions of the Syrian women refugees and the violence that they have been suffering since 2011.

Some local NGOs, such as KAFA, ABAAD and Caritas have created shelters dedicated to provide assistance to the victims of GBV and this those have included the cases of sex trafficking against Syrian women refugees.

The local NGOs are advocating to overturn the elements of the legal framework that discriminate women.

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