

Legal Review:

National and International Frameworks and Laws Addressing Sexual Exploitation, Sexual Abuse, and Sexual Harassment

United Nations Children's Fund
Lebanon Country Office - 2022



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1. Glossary of key terms

Allegation of sexual exploitation and abuse	A report of sexual exploitation or sexual abuse that has been assessed as having sufficient information ¹ to be referred for investigation. ²
Beneficiaries	Persons who directly or indirectly benefit from an intervention, project, or programme ³ provided by the Municipality of Beirut or who receive assistance or services ⁴ provided by the Municipality of Beirut.
Child	Every individual under the age of 18 years, irrespective of local country definitions of when a person reaches adulthood. ⁵
Consent	See “informed consent”
Concern	A cause of anxiety or worry ⁶ that is currently not proven by evidence to be true. ⁷ In the context of sexual exploitation and abuse, a suspicion and/or rumour that an organisation’s personnel, operations, or programmes have caused or are causing harm.

¹ This information may include: Subject of the report, survivor(s), witnesses, forensic evidence, corroborating facts, etc.

² Adapted from United Nations (2017): Glossary on Sexual Exploitation and Abuse: Thematic Glossary of current terminology related to Sexual Exploitation and Abuse (SEA) in the context of the United Nations, available at: <http://pseataaskforce.org/uploads/tools/1501161761.pdf>, no.58. Note that the UN Glossary defines an allegation as “a report that has been assessed as having been *sufficiently credible* to warrant referral for investigation”, with credibility defined as “worthy of belief”. However, a survivor-centred approach requires that we take what is reported by the survivor / informant seriously, respecting their rights, wishes, choices and dignity and recognising that the unthinkable *is* possible. See the Inter-Agency Standing Committee Task Force on Protection from Sexual Exploitation and Abuse (May 2016): Model Complaints and Investigation Procedures and Guidance Related to Sexual Abuse and Sexual Exploitation.

³ Adapted from Yvonne Kemper (2020): Protection from Sexual Exploitation and Abuse (PSEA): A Practical Guide and Toolkit for UNICEF and Partners, available at https://www.unicef.org/about/partnerships/index_81428.html

⁴ Adapted from United Nations (2017): Glossary on Sexual Exploitation and Abuse: Thematic Glossary of current terminology related to Sexual Exploitation and Abuse (SEA) in the context of the United Nations, available at: <http://pseataaskforce.org/uploads/tools/1501161761.pdf>, no.30

⁵ Adapted from IASC (2013): Guidelines to implement the Minimum Operating Standards for Protection from Sexual Exploitation and Abuse by UN and non-UN Personnel, available at: <https://interagencystandingcommittee.org/protection-sexual-exploitation-and-abuse/documents-public/guidelines-implement-minimum-operating>

⁶ Lexico from Oxford University Press (2019) available at: <https://www.lexico.com/en/definition/concern>

⁷ Hannah Thompson et al (2019): [Safeguarding report-handling toolkit: 20 core elements: a toolkit to strengthen safeguarding report-handling](#)

Data protection	The systematic application of a set of institutional, technical, and physical safeguards that preserve the right to privacy with respect to the collection, storage, use and disclosure of personal data. ⁸
Disciplinary measures	<p>The sanctions applied by the employing organisation at the conclusion of an investigation to an individual who is found to have committed misconduct, or the sanctions that would have been applied in circumstances where an investigation has concluded with a finding of misconduct after the individual has left the employing organisation.⁹</p> <p>Disciplinary measures may take the form of written censure; loss of one or more steps in grade; deferment, for a specified period, of eligibility for salary increment; suspension without pay for a specified period; fine; demotion with deferment, for a specified period, of eligibility for consideration for promotion; separation from service, with notice or compensation in lieu of notice, and with or without termination indemnity; and dismissal. Sexual exploitation and sexual abuse are serious misconduct and result in the most serious disciplinary measures.¹⁰</p>
Employee	All persons and organisations who have a contractual relationship with the Municipality of Beirut. It refers to elected officials, civil servants, volunteers, interns, consultants, contractors, suppliers, service providers, grantees, and anyone else performing a task for or on behalf of the Municipality of Beirut, whether paid or unpaid, regardless of the type or duration of their contract. ¹¹
Informed consent	Voluntary and freely given approval by the participant for the information to be used as explained.

⁸ IASC Operational guidance on responsibilities of Cluster/Sector leads & OCHA in information management, endorsed by the IASC Working Group Geneva, 4 December 2008, available at https://www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/documents/files/IASC_operational_guidance_on_information_management.pdf

⁹ Based on the inter-agency scheme for the disclosure of safeguarding-related misconduct in recruitment process within the humanitarian and development sector: How to implement guide, p.5 available at <https://static1.squarespace.com/static/57ffc65ed482e9b6838607bc/t/5e2abf58256bbc3c10e42275/1579859810130/SCHR+Misconduct+Disclosure+Scheme+-+How+to+implement+guide+Jan+2020.pdf>

¹⁰ United Nations (2017): Glossary on Sexual Exploitation and Abuse: Thematic Glossary of current terminology related to Sexual Exploitation and Abuse (SEA) in the context of the United Nations, available at: <http://pseataaskforce.org/uploads/tools/1501161761.pdf>, no.82

¹¹ Based on Inter-Agency Standing Committee (2016): Best Practice Guide: Inter-Agency Community-Based Complaint Mechanism, p.x

NB: Children’s informed consent should take into consideration their evolving capacities and should be accompanied by the informed consent of a parent or guardian. Persons with disabilities may need specific support to give informed consent, based on the nature of their impairment. In all cases, even if informed consent is obtained, it may be withdrawn at any time. Moreover, the information collector has an obligation to assess the potential implications of the use of information on the safety of the person providing it, and on others involved, and to minimise any risk of harm that may result from use of the information.¹²

Initial assessment

A review of information to determine whether it is sufficient to refer for investigation (i.e.: it amounts to an allegation sexual exploitation and abuse) or whether further fact-finding is required.¹³

Investigation

A legally based and analytical process designed to gather information to determine whether misconduct occurred and, if so, the persons or entities responsible.¹⁴

Misconduct

The failure by a Municipality of Beirut employee to comply with his or her obligations under the PSEA Code of Conduct or other relevant administrative issuances or to observe the standards of conduct expected of a Municipality of Beirut employee. Sexual exploitation and abuse constitute serious misconduct and may lead to the institution of a disciplinary process and the imposition of disciplinary measures.¹⁵

Notification of allegation

A notification in writing, from the responsible agency to the named party, setting out the facts alleged to have occurred and requesting the named party to provide his or her

¹² Adapted from United Nations (2017): Glossary on Sexual Exploitation and Abuse: Thematic Glossary of current terminology related to Sexual Exploitation and Abuse (SEA) in the context of the United Nations, available at: <http://pseataaskforce.org/uploads/tools/1501161761.pdf>, no.62

¹³ United Nations (2017): Glossary on Sexual Exploitation and Abuse: Thematic Glossary of current terminology related to Sexual Exploitation and Abuse (SEA) in the context of the United Nations, available at: <http://pseataaskforce.org/uploads/tools/1501161761.pdf>, no.56

¹⁴ Based on United Nations (2017): Glossary on Sexual Exploitation and Abuse: Thematic Glossary of current terminology related to Sexual Exploitation and Abuse (SEA) in the context of the United Nations, available at: <http://pseataaskforce.org/uploads/tools/1501161761.pdf>, no.60

¹⁵ Adapted from United Nations (2017): Glossary on Sexual Exploitation and Abuse: Thematic Glossary of current terminology related to Sexual Exploitation and Abuse (SEA) in the context of the United Nations, available at: <http://pseataaskforce.org/uploads/tools/1501161761.pdf>, no.3

comments thereon. Normally issued following an investigation.¹⁶

Report of possible sexual exploitation and abuse Information provided, whether by an informant or any other person (source), indicating conduct that may be in breach of the PSEA policy and code of conduct but that has yet to be assessed.¹⁷

Sexual exploitation and abuse All forms of inappropriate conduct of a sexual nature committed by a Municipality of Beirut employee against those receiving Municipal services, advice or assistance and other members of local communities.

Sexual abuse The actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions. This includes non-contact and online sexual abuse.¹⁸

Sexual abuse is a broad term, which includes several acts, including “rape”¹⁹, “sexual assault”²⁰, “sex with a minor”, and “sexual activity with a minor”^{21, 22}

All sexual activity (meaning “physical contact of a sexual nature”²³) with a child is considered as sexual abuse.²⁴

Sexual exploitation Any actual or attempted abuse of a position of vulnerability, differential power, or trust for sexual purposes, including, but

¹⁶ Adapted from United Nations (2017): Glossary on Sexual Exploitation and Abuse: Thematic Glossary of current terminology related to Sexual Exploitation and Abuse (SEA) in the context of the United Nations, available at: <http://pseataaskforce.org/uploads/tools/1501161761.pdf>, no.58

¹⁷ Adapted from United Nations (2017): Glossary on Sexual Exploitation and Abuse: Thematic Glossary of current terminology related to Sexual Exploitation and Abuse (SEA) in the context of the United Nations, available at: <http://pseataaskforce.org/uploads/tools/1501161761.pdf>, no.51

¹⁸ United Nations (2017): Glossary on Sexual Exploitation and Abuse: Thematic Glossary of current terminology related to Sexual Exploitation and Abuse (SEA) in the context of the United Nations, available at: <http://pseataaskforce.org/uploads/tools/1501161761.pdf>, no.4

¹⁹ Penetration – even if slightly – of any body part of a person who does not consent with a sexual organ and/or the invasion of the genital or anal opening of a person who does not consent with any object or body part. [UN Glossary on sexual exploitation and abuse](#), no. 8

²⁰ Sexual activity with another person who does not consent. It is a violation of bodily integrity and sexual autonomy and is broader than narrower conceptions of “rape”, especially because (a) it may be committed by other means than force or violence, and (b) it does not necessarily entail penetration. [UN Glossary on sexual exploitation and abuse](#), no. 9

²¹ Sexual penetration of a person younger than 18. Sexual penetration include(s) the penetration of the vagina, anus, or mouth by the penis or other body part, and also includes the penetration of the vagina or anus by an object. Sexual penetration of a child is prohibited regardless of the age of 7 majority or consent locally and is considered as sexual abuse. Mistaken belief in the age of a child is not a defence. [UN Glossary on sexual exploitation and abuse](#), no. 10

²² [UN Glossary on sexual exploitation and abuse](#), no. 4

²³ [UN Glossary on sexual exploitation and abuse](#), no. 5

²⁴ [UN Glossary on sexual exploitation and abuse](#), no. 4

not limited to profiting monetarily, socially, or politically from the sexual exploitation of another.²⁵

Sexual exploitation is a broad term, which includes several acts, including “transactional sex”²⁶, “solicitation of transactional sex”²⁷ and “exploitative relationship”^{28,29}

Sexual harassment

Any unwelcome sexual advance, request for sexual favour, verbal or physical conduct or gesture of a sexual nature, or any other behaviour of a sexual nature that might reasonably be expected or be perceived to cause offence or humiliation to another.³⁰

Sexual harassment is subjective, and occurs when such conduct interferes with work, is made a condition of employment, or creates an intimidating, hostile or offensive work environment. It can be a one-off act or a series of incidents.³¹

Subject of the report / investigation

The person who is the focus of that report / investigation.³²

Substantiated

The investigation concluded that there is sufficient evidence to establish the occurrence of sexual exploitation and abuse.³³

²⁵ United Nations (2017): Glossary on Sexual Exploitation and Abuse: Thematic Glossary of current terminology related to Sexual Exploitation and Abuse (SEA) in the context of the United Nations, available at: <http://pseataaskforce.org/uploads/tools/1501161761.pdf>, no.6

²⁶ The exchange of money, employment, goods or services for sex, including sexual favours other forms of humiliating, degrading or exploitative behaviour. This includes any exchange of assistance that is due to beneficiaries of assistance. [UN Glossary on sexual exploitation and abuse](#), no. 13

²⁷ Requesting transactional sex. [UN Glossary on sexual exploitation and abuse](#), no. 14

²⁸ A relationship that constitutes sexual exploitation, i.e. any actual or attempted abuse of a position of vulnerability, differential power or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another. [UN Glossary on sexual exploitation and abuse](#), no. 16

²⁹ [UN Glossary on sexual exploitation and abuse](#), no. 6

³⁰ [UN Secretary-General’s Bulletin \(2008\): Prohibition of discrimination, harassment, including sexual harassment, and abuse of authority, U.N. Doc. ST/SGB/2008/5](#), para.1.3

³¹ [UN Secretary-General’s Bulletin \(2008\): Prohibition of discrimination, harassment, including sexual harassment, and abuse of authority, U.N. Doc. ST/SGB/2008/5](#), para.1.3

³² Adapted from United Nations (2017): Glossary on Sexual Exploitation and Abuse: Thematic Glossary of current terminology related to Sexual Exploitation and Abuse (SEA) in the context of the United Nations, available at: <http://pseataaskforce.org/uploads/tools/1501161761.pdf>, no.31. Note that other sources may refer to this person as the “alleged perpetrator”.

³³ United Nations (2017): Glossary on Sexual Exploitation and Abuse: Thematic Glossary of current terminology related to Sexual Exploitation and Abuse (SEA) in the context of the United Nations, available at: <http://pseataaskforce.org/uploads/tools/1501161761.pdf>, no.68

Unsubstantiated

The available evidence was insufficient to allow for an investigation to be completed or the investigation concluded that there was insufficient evidence to establish the occurrence of sexual exploitation and abuse, for a variety of reasons and does not necessarily mean that the allegation was necessarily false.³⁴

Zero-tolerance policy

A policy establishing that sexual exploitation and abuse by Municipality of Beirut employees is prohibited and that every transgression will be acted upon.³⁵

³⁴ United Nations (2017): Glossary on Sexual Exploitation and Abuse: Thematic Glossary of current terminology related to Sexual Exploitation and Abuse (SEA) in the context of the United Nations, available at: <http://pseataaskforce.org/uploads/tools/1501161761.pdf>, no.69

³⁵ Adapted from United Nations (2017): Glossary on Sexual Exploitation and Abuse: Thematic Glossary of current terminology related to Sexual Exploitation and Abuse (SEA) in the context of the United Nations, available at: <http://pseataaskforce.org/uploads/tools/1501161761.pdf>, no.2; and CHS Alliance (2017): PSEA Implementation Quick Reference Handbook, available at: <https://www.chsalliance.org/files/files/PSEA%20Handbook.pdf>

2. The global framework for addressing sexual exploitation and abuse

2.1. Introduction

At the heart of global efforts to address sexual exploitation and abuse are the complementary policies established by the United Nations and the Inter-Agency Standing Committee (IASC), an inter-agency forum for coordination, policy development and decision-making involving key UN and non-UN humanitarian partners³⁶. These global standards serve as reference points for the humanitarian community in establishing and elaborating organisational and interagency commitments to combat and respond to sexual exploitation and abuse.

2.2. Global standards

IASC Six Core Principles Relating to Sexual Exploitation and Abuse (2002)³⁷

Adopted in 2002 (and updated in September 2019), the IASC core principles outline the expected standards of behaviour for all humanitarian practitioners to prevent and respond to sexual exploitation and abuse:

1. Sexual exploitation and abuse by humanitarian workers constitute acts of gross misconduct and are therefore grounds for termination of employment.
2. Sexual activity with children (persons under the age of 18) is prohibited regardless of the age of majority or age of consent locally. Mistaken belief regarding the age of a child is not a defence.
3. Exchange of money, employment, goods, or services for sex, including sexual favours or other forms of humiliating, degrading or exploitative behaviour is prohibited. This includes exchange of assistance that is due to beneficiaries.
4. Any sexual relationship between those providing humanitarian assistance and protection and a person benefitting from such humanitarian assistance and protection that involves improper use of rank or position is prohibited. Such relationships undermine the credibility and integrity of humanitarian aid work.
5. Where a humanitarian worker develops concerns or suspicions regarding sexual abuse or exploitation by a fellow worker, whether in the same agency or not, he or she must report such concerns via established agency reporting mechanisms.
6. Humanitarian workers are obliged to create and maintain an environment which prevents sexual exploitation and abuse and promotes the implementation of their code of conduct. Managers at all levels have particular responsibilities to support and develop systems which maintain this environment.

³⁶ <https://interagencystandingcommittee.org/iasc>

³⁷ Updated September 2019. See <https://interagencystandingcommittee.org/inter-agency-standing-committee/iasc-six-core-principles-relating-sexual-exploitation-and-abuse>

UN Secretary-General's Bulletin: Special Measures for Protection from Sexual Exploitation and Abuse, March 2003

In 2003, the UN Secretary-General, in consultation with the Executive Heads of the separately administered organs and programmes of the United Nations, promulgated a Bulletin entitled *Special Measures for Protection from Sexual Exploitation and Abuse*, which affirms the applicability of the IASC six core principles to “all staff of the United Nations, including staff of separately administered organs and programmes of the United Nations”³⁸.

The Bulletin advanced cohesion around efforts to address sexual exploitation and abuse by endorsing the following IASC definitions³⁹, which apply across all sectors and in all contexts:

- **Sexual exploitation** is any actual or attempted abuse of a position of vulnerability, differential power, or trust for sexual purposes, including, but not limited to profiting monetarily, socially, or politically from the sexual exploitation of another.
- **Sexual abuse** is the actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions.⁴⁰

These definitions have since been incorporated into the PSEA policies and codes of conduct of various international non-governmental organisations. They have also been elaborated on in subsequent scholarship:

- **Sexual exploitation** is a broad term, which includes a number of acts, including “transactional sex”⁴¹, “solicitation of transactional sex”⁴² and “exploitative relationship”^{43, 44}.
- **Sexual abuse** is a broad term which includes a number of acts, including “rape”⁴⁵, “sexual assault”⁴⁶, “sex with a minor” and “sexual activity with a minor”⁴⁷. It includes

³⁸ [UN Secretary-General Bulletin \(2003\): Special Measures for Protection from Sexual Exploitation and Abuse, U.N. Doc. ST/SGB/2003/13](#), paras.2.1 and 3.2

³⁹ IASC (2002): Report of the task force on protection from sexual exploitation and abuse in humanitarian crises, para. 8, available at <https://www.unicef.org/emergencies/files/IASCTFReport.pdf>

⁴⁰ [UN Secretary-General Bulletin \(2003\): Special Measures for Protection from Sexual Exploitation and Abuse, U.N. Doc. ST/SGB/2003/13](#), Section 1: Definitions

⁴¹ The exchange of money, employment, goods or services for sex, including sexual favours other forms of humiliating, degrading or exploitative behaviour. This includes any exchange of assistance that is due to beneficiaries of assistance. [UN Glossary on sexual exploitation and abuse](#), no. 13

⁴² Requesting transactional sex. [UN Glossary on sexual exploitation and abuse](#), no. 14

⁴³ A relationship that constitutes sexual exploitation, i.e., any actual or attempted abuse of a position of vulnerability, differential power or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another. [UN Glossary on sexual exploitation and abuse](#), no. 16

⁴⁴ [UN Glossary on sexual exploitation and abuse](#), no. 6

⁴⁵ Penetration – even if slightly – of any body part of a person who does not consent with a sexual organ and/or the invasion of the genital or anal opening of a person who does not consent with any object or body part. [UN Glossary on sexual exploitation and abuse](#), no. 8

⁴⁶ Sexual activity with another person who does not consent. It is a violation of bodily integrity and sexual autonomy and is broader than narrower conceptions of “rape”, especially because (a) it may be committed by other means than force or violence, and (b) it does not necessarily entail penetration. [UN Glossary on sexual exploitation and abuse](#), no. 9

⁴⁷ Sexual penetration of a person younger than 18. Sexual penetration include(s) the penetration of the vagina, anus, or mouth by the penis or other body part, and also includes the penetration of the vagina or anus by an

non-contact and on-line sexual abuse.⁴⁸ All sexual activity (meaning “physical contact of a sexual nature”⁴⁹) with a child is considered as sexual abuse.⁵⁰

The Bulletin further obliges United Nations officials to inform all entities and individuals with whom they enter cooperative arrangements of the expected standards of conduct outlined in the IASC six core principles.⁵¹ Entities and individuals who fail to take preventative measures against sexual exploitation and abuse, or to take corrective action when sexual exploitation and abuse has occurred, risk having their cooperative arrangements terminated.⁵²

UN Secretary-General’s Bulletin on Prohibition of Discrimination, Harassment, including Sexual Harassment, and Abuse of Authority, February 2008

The Bulletin was developed for the purpose of ensuring that all staff members of the Secretariat are treated with dignity and respect and are aware of their role and responsibilities in maintaining a workplace free of any form of discrimination, harassment, including sexual harassment, and abuse of authority. It defined **sexual harassment** as:

- Any unwelcome sexual advance, request for sexual favour, verbal or physical conduct or gesture of a sexual nature, or any other behaviour of a sexual nature that might reasonably be expected or be perceived to cause offence or humiliation to another.⁵³

Importantly, sexual harassment does not depend on the intention of the perpetrator but on the impact the perpetrator’s conduct has on the victim/survivor:

- Sexual harassment is subjective, and occurs when such conduct interferes with work, is made a condition of employment, or creates an intimidating, hostile or offensive work environment. It can be a one-off act or a series of incidents.⁵⁴

object. Sexual penetration of a child is prohibited regardless of the age of 7 majority or consent locally and is considered as sexual abuse. Mistaken belief in the age of a child is not a defence. [UN Glossary on sexual exploitation and abuse](#), no. 10

⁴⁸ [UN Glossary on sexual exploitation and abuse](#), no. 4

⁴⁹ [UN Glossary on sexual exploitation and abuse](#), no. 5

⁵⁰ [UN Glossary on sexual exploitation and abuse](#), no. 4

⁵¹ [UN Secretary-General Bulletin \(2003\): Special Measures for Protection from Sexual Exploitation and Abuse, U.N. Doc. ST/SGB/2003/13](#), para.6.1

⁵² [UN Secretary-General Bulletin \(2003\): Special Measures for Protection from Sexual Exploitation and Abuse, U.N. Doc. ST/SGB/2003/13](#), para.6.2

⁵³ [UN Secretary-General’s Bulletin \(2008\): Prohibition of discrimination, harassment, including sexual harassment, and abuse of authority, U.N. Doc. ST/SGB/2008/5](#), para.1.3

⁵⁴ [UN Secretary-General’s Bulletin \(2008\): Prohibition of discrimination, harassment, including sexual harassment, and abuse of authority, U.N. Doc. ST/SGB/2008/5](#), para.1.3

UN Secretary-General's Bulletin on Protection Against Retaliation for Reporting Misconduct and for Cooperating with Duly Authorised Audits or Investigations, January 2017

The Bulletin assures UN employees and related personnel protection against retaliation. Protection against retaliation applies to all individuals who in good faith (a) report misconduct and (b) cooperate with a duly authorised investigation or audit.⁵⁵

Retaliation means any direct or indirect detrimental action that adversely affects the employment or working conditions of an individual, where such action has been recommended, threatened, or taken for the purpose of punishing, intimidating or injuring an individual because that individual reported misconduct or cooperated in good faith with a duly authorised audit or investigation.⁵⁶

Making a report or providing information that is intentionally false or misleading constitutes misconduct and may result in disciplinary or other appropriate action.⁵⁷

UN Protocol on Allegations of Sexual Exploitation and Abuse Involving Implementing Partners, March 2018.

The Protocol reinforces that the United Nations does not partner with entities that fail to address sexual exploitation and abuse through appropriate preventive measures, investigation, and corrective action. It further sets out requirements for UN entities to assess and regularly monitor the capacities of implementing partners to prevent and mitigate the risks of sexual exploitation and abuse⁵⁸ and to support capacity strengthening of implementing partners' employees and associated personnel on prevention and response to sexual exploitation and abuse.⁵⁹ Crucially, implementing partners are required to promptly forward all reports of sexual exploitation and abuse to the partnering United Nations entity which, in turn, is obliged to share the report with the Secretary-General.⁶⁰

It is important to emphasise that the Protocol does not seek to undermine organisational ownership for preventing, mitigating, and responding to sexual exploitation and abuse. Indeed, the primary obligation for PSEA rests with each individual organisation, regardless of whether they are an implementing partner of a United Nations agency. Rather, the Protocol is aimed at United Nations agencies: it *prohibits* UN agencies from entering into cooperative arrangements with organisations that lack robust PSEA systems and it *requires* UN agencies to help strengthen the PSEA capacities of their implementing partners. Thus, organisations

⁵⁵ UN Secretary-General Bulletin (2017): Protection Against Retaliation for Reporting Misconduct and for Cooperating with Duly Authorised Audits or Investigations, January 2017, para.2.1

⁵⁶ UN Secretary-General Bulletin (2017): Protection Against Retaliation for Reporting Misconduct and for Cooperating with Duly Authorised Audits or Investigations, January 2017, para.1.4

⁵⁷ UN Secretary-General Bulletin (2017): Protection Against Retaliation for Reporting Misconduct and for Cooperating with Duly Authorised Audits or Investigations, January 2017, para.2.3

⁵⁸ United Nations protocol on allegations of sexual exploitation and abuse involving implementing partners, 21 March 2018, paras.14 and 18

⁵⁹ United Nations protocol on allegations of sexual exploitation and abuse involving implementing partners, 21 March 2018, para.17

⁶⁰ United Nations protocol on allegations of sexual exploitation and abuse involving implementing partners, 21 March 2018, para.19

that do enter into cooperative arrangements with United Nations entities may benefit from additional support.

2.3. Human rights law

UN Convention on the Rights of the Child

Article 34: States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse.

UN Convention on the Elimination of all forms of Discrimination Against Women

Article 11.1: States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular... (f) The right to protection of health and to safety in working conditions.

2.4. Humanitarian standards

Core Humanitarian Standard

Commitment 4: Communities and people affected by crisis know their rights and entitlements, have access to information and participate in decisions that affect them.

Commitment 5: Communities and people affected by crisis have access to safe and responsive mechanisms to handle complaints.

3. The Lebanese framework for addressing sexual harassment, sexual exploitation and sexual abuse

3.1. Laws relating to sexual violence

Lebanese Penal Code (legislative decree no.340)

The Lebanese Penal Code does not effectively criminalise sexual exploitation or sexual abuse.

Articles 503 and 504 criminalise extra-marital rape, explicitly excluding sexual intercourse within marriage. However, this is unlikely to be relevant in the context of sexual harassment and sexual exploitation and abuse except in the unlikely event that the perpetrator is also the victim's/survivor's spouse.

Importantly, for the purposes of sexual exploitation and abuse, **Article 506** stipulates that anyone who *abuses his authority or official position* to force sexual intercourse with a child aged between 15 and 18 years old shall be punished by a period up to 15 years of imprisonment. Meanwhile, **Article 507** imposes a sanction of imprisonment for a period not less than four years for anyone who forces another person, through violence or threats, to commit or endure an indecent act, with a minimum sentence of six years to be applied if the victim/survivor is below 15 years of age.

There are also some gaps and problematic aspects to the Penal Code. While rape is criminalised, non-penetrative sexual violence is neither explicitly criminalised nor defined. Arguably, it could be subsumed within the definition of an “indecent act” under **Article 507**, but this would be a matter for statutory interpretation. Equally challenging, “indecent act” is itself not defined. Moreover, **Article 507** is limited to indecent acts perpetrated by “force... through violence or threats”. This is vastly narrower in scope than the IASC definition of sexual abuse, which encompasses the commission of **and threats to commit** intrusions of a sexual nature “by force or **under unequal or coercive conditions**”. The IASC definition also clarifies that the sexually intrusive acts may be contact or non-contact and occur on-line or off-line – an issue left ambiguous under Lebanese law.

Meanwhile, **Article 506** is the only one to mention the perpetrator “abusing their authority or official position”, partially mirroring the IASC definition of sexual exploitation, a key element of which is the perpetrator abusing **a position of vulnerability, differential power or trust** for sexual purposes. However, **Article 506** is vastly more constricted than the IASC definition of sexual exploitation. First, it is restricted to sexual intercourse, whereas the IASC definition covers **all sexual acts**; second, it applies only to victims/survivors aged 15 to 18 years; third, it refers only to actual abuses, while the IASC definition extends to **attempted** abuses; fourth, it does not include the requisite transactional element (the exchange of money, employment, goods or services for sex or sexual favours).

Of significant concern are **Article 505**, which essentially legalises statutory rape (rape of a person younger than 18 years of age) if the rapist marries the victim/survivor (“in case of an explicit marriage between them, the prosecution will be suspended”) and **Article 518**, which allows that in cases of rape of a female virgin by means of deception (i.e.: the promise of marriage), the prosecution will be suspended where a valid marriage between them subsequently takes place. These two articles provide perpetrators of rape against girls and virgins with an easy means of evading prosecution.

Cumulatively, these omissions and inconsistencies render the Lebanese Penal Code inadequate to prosecute sexual exploitation and abuse.

Law No. 205 for the Criminalisation of Sexual Harassment and Rehabilitation of its Victims

The Lebanese definition of sexual harassment, unlike the UN definition, is not confined to the workplace. Moreover, it encompasses elements of sexual abuse and sexual exploitation, as per the IASC definition. However, the law does not explicitly distinguish between sexual harassment, sexual exploitation, and sexual abuse. Hence, it would appear to be a law that criminalises sexual misconduct, albeit haphazardly defined.

Article 1 of the law provides two alternate definitions of sexual misconduct:

- The first is “any recurring bad uncommon behavior, unwanted by the victim, with a sexual connotation that constitutes a violation of the body, intimacy or feelings of the victim wherever the victim is, through sexual or pornographic statements, actions, signals, suggestions, or allusions, and by any means with which the harassment took place, including by electronic means”.
- The second is “any act or endeavor, even if it is not recurring, that uses any kind of psychological, moral, material or racial pressure that actually aims at obtaining a benefit of a sexual nature from which the perpetrator or others benefit”.

Article 1 part one sets a very high threshold for prosecution, requiring that the behaviour be “recurring” and be “unwanted by the victim”. However, the law does not stipulate (a) how many times the behaviour must occur, (b) within which time period the behaviour must recur or (c) whether it is the class of behaviour or the specific conduct that must be repeated. Leaving these aspects open to interpretation is highly problematic.

Regarding the requirement that the behaviour be “unwanted by the victim”, this would seem to complicate the prosecution of sexual misconduct that is not directed at a particular individual, such as sexually inappropriate behaviour, language or images that create an intimidating, hostile or offensive work environment. Prosecution may also be complicated in cases where the sexually inappropriate behaviour *is* directed at a particular individual (“the victim”) but is reported by a bystander. If there is no victim to testify that they found the behaviour unwanted, it would appear that the definition of sexual misconduct cannot be met.

Article 1 part two is more closely aligned with the IASC definition of sexual exploitation, which prohibits actual or attempted *abuse of a position of vulnerability, differential power, or trust* for sexual purposes.

Overall, **Article 1, parts one and two** require that sexual misconduct *either* (a) be (i) recurring and (ii) unwanted by an identifiable victim *or* (b) be committed using (i) a form of pressure to (ii) obtain a sexual benefit. Note that the threat of such misconduct is not a crime.

Subsequent articles elaborate on this core definition and specify how the different forms of sexual misconduct are to be punished.

Sexual harassment, as per the UN definition, seems implicitly contemplated under **Article 2.B.1** (sexual harassment within the framework of a work relationship) and **Article 2.B.2** (sexual harassment within one the public institutions or municipalities) – both of which attract a penalty of imprisonment from six months to two years and/or a fine of ten to twenty times the official minimum wage; and under **Article 2.C.2** (sexual harassment committed by a perpetrator who has material or functional authority over the victim – which attracts a penalty of imprisonment from two to four years and/or a fine ranging from thirty to fifty times the official minimum wage. The limitations vis-à-vis the Lebanese requirements for the harassment to be recurring, compared with the international sufficiency of the harassment being a one-off act, have already been discussed.

Sexual abuse, as per the IASC definition (contact or non-contact sexual intrusion *by force or under unequal or coercive conditions*), seems to be contemplated under **Article 2.B.1** (sexual harassment within the framework of a dependency relationship) and under **Article 2.C.1** (sexual harassment committed against a juvenile or a person with additional needs or against someone who was unable to defend himself due to his physical or psychological health condition) and **Article 2.C.2** (sexual harassment committed by a perpetrator who has material or functional authority over the victim. However, while Lebanese law criminalises both actual *and attempted* sexual exploitation, only *actual* sexual abuse is prohibited – not threatened.

Article 4 provides protection for victims/survivors who refused to submit to the sexual harassment, stating they may not be discriminated against nor have their legally established rights infringed. In the workplace context, this includes protection against retaliation in terms of pay, promotion, transfer, renewal of work contract or the imposition of disciplinary penalties.

Article 4 also provides protection for third-party informants and witnesses but, strangely, seems to omit protection for victims/survivors:

“No discrimination or infringement of the legally established rights may be done to the person reporting harassment in the cases in which the public prosecution is initiated without the complaint of the victim or who testified in any case and no disciplinary penalties may be imposed against them.”

Pursuant to **Article 5**, employers are free to initiate disciplinary proceedings against alleged perpetrators of sexual harassment independent of whether the incident is criminally prosecuted.

Article 5 also enshrines the survivor’s entitlement to civil compensation for the psychological, moral, or material (meaning physical and financial) pain he/she has suffered. Additionally, **Article 6** requires the Ministry of Social Affairs to establish a special fund to assist victims/survivors of sexual harassment and provide them with care to ensure their rehabilitation and integration into society.

3.2. Laws relating to whistle blower protection

Law No.83 on the Protection of Whistleblowers

The law defines a whistleblower as a person who discloses information relating to an act or omission that has occurred, is occurring or may occur, and who believes that it relates to, indicates, or helps to prove corruption, (**Article 1c**). For the purposes of this law, corruption means “the abuse of authority, position, or work with the aim of achieving inappropriate gains or benefits by a civil servant⁶¹”, (**Article 1a**). The law does not define the nature of the inappropriate gains or benefits – however there is no reason these could not include *sexual* gains or *sexual* benefits.

Whistleblowers – including their family members – are entitled to protection from retaliation, threats, and harm, (**Article 2a**) both inside (**Article 7a**) and outside (**Article 7b**) the workplace. The law provides for the imposition of financial penalties on anyone who inflicts harm on a whistleblower, (**Article 11**).

Importantly, the law expressly affirms that a person’s disclosure of corruption is not considered a breach of professional confidentiality, (**Article 1e**). Thus, all clauses in work or employment contracts or in any other agreement of any kind that contradicts or impedes the application of the provisions of this law is considered null and void, (**Article 17b**). Indeed, all legal and organisational provisions and administrative decisions that are inconsistent with or incompatible with this law are not to apply (**Article 17a**).

⁶¹ Article 1e: “Any person holding a legislative, judicial, executive, administrative, military, security or advisory position, whether appointed or elected, permanent or temporary, paid or unpaid, and any person performing a public function, including any position of constitutional powers or in any public office or service or work performed for the benefit of a public property, a public facility, a public utility, a public institution, or a public service, for the benefit of a public entity or public utility, whether legally or de facto undertaken.”



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