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PARAPHILIAS

Legal and Policy Considerations in Lebanon Related to Proposals for Paraphilic Disorders in World Health Organization's International Classification of Diseases Manual, 11th Version

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ABSTRACT

Introduction: The World Health Organization's general assembly, in its last meeting of May 2019, has approved the suggested changes to the International Classification of Diseases manual, 11th version (ICD-11). Some of the proposed recommendations include the revision of "Disorders of Sexual Preference", now called Paraphilic Disorders, currently listed under the International Classification of Diseases-10 Mental and Behavioural Disorders.

Aim: This article presents findings on the analysis of the existing laws and policies that are relevant to paraphilic disorders in Lebanon.

Methods: A literature review of all official and unofficial documents, reports, and articles published on laws and health policies relevant to paraphilic disorders in Lebanon was conducted, including a thorough review on Lebanese laws on that matter. Moreover, interviews with government representatives, including the Ministry of Public Health, the Ministry of Justice, the Ministry of Social Affairs, representatives of Non-Governmental Organizations working in child protection, and mental health professionals from the private and public sector, were conducted.

Main Outcome Measure: Covered are (i) the health system in Lebanon including policies and laws related to mental health care provision and relevance to paraphilic disorders, (ii) the legal framework and the mental health evaluation and treatment in the Lebanese criminal justice system: the case of paraphilic disorders, (iii) adjudication of sex offenders in Lebanon, (iv) criminal responsibility relevant to paraphilic disorders, and (v) the relationship between legal and clinical issues for non—forensic health professionals.

Results: The treatment of paraphilic disorders would follow the treatment of all mental health conditions in Lebanon as no specific services for paraphilic disorders are available within these health-care systems. Legally, sexual crimes in Lebanon are not judged according to the individual's urges, fantasies, or state of mind, rather are assessed according to the acts committed by the individual. Therefore, an individual diagnosed with a paraphilic disorder is not culpable of any crime should he not act on this disorder by committing acts that fall under the scope of the penal code. An analysis of sexual acts that qualify as crimes reveals that the element of consent is rarely taken into consideration as most sexual crimes are defined as such with reference to violation of social norms, primarily "morals and public morality." Therefore, a change in the diagnostic classification of mental and behavioral disorders (ICD or Diagnostic and Statistical Manual of Mental Disorders) should not be a factor in their definition. Furthermore, in the course of enforcing criminal sanctions on individuals diagnosed with a mental disorder, the determining factor will be the individual's state of awareness at the time of the act. Psychiatric expertise initiated in that context lacks standardized criteria for diagnosis and is not bound by law to rely on international classifications; it is usually based on nonstructured interviews. Should it be assessed that the individual was fully aware of the consequences of his or her act, the paraphilic disorder diagnosis should not play any role in the sentencing.

Clinical implications: Clinicians in Lebanon can now be aware of the legal sanctions that patients with paraphilic disorders may fall under, should criminal acts be committed. Clinicians can also be familiar with the role of

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mental health disorders in the legal system, specifically with relevance to "awareness" at the time of the criminal act. Moreover, clinicians can freely use the updated diagnoses of paraphilic disorders in the ICD-11, as they form no legal detriments in Lebanon.

Strength & Limitations: The interviewing technique used in this study ensured that participants spoke about issues pertinent to their experience and expertise and helped achieve data saturation. Nonetheless, although this is a review, a quality and bias screening tool was not used because of the search mostly pertaining to legal laws and cases instead of research articles. furthermore, no software was used to analyze the qualitative data from the interviews. In addition, some of the documents reviewed were in Arabic, and therefore, some nuances, while translating the essential findings to English, might have been lost in translation.

Conclusion: Compared with the ICD-10, the categories and definitions in ICD-11 should not create any additional obstacles nor offer any direct positive consideration, as the diagnostic classifications of mental disorders (ICD or Diagnostic and Statistical Manual of Mental Disorders) are not relevant to the definition of criminal sexual acts in Lebanon. **Makhlouf Y, Kerbage H, Khauli N, et al. Legal and Policy Considerations in Lebanon Related to Proposals for Paraphilic Disorders in World Health Organization's International Classification of Diseases Manual, 11th Version. J Sex Med 2020;17:491−504.**

Key Words: Paraphilic Disorders; ICD-11; Disorders of Sexual Preference; Forensic Psychiatry; Lebanon

INTRODUCTION

The World Health Organization (WHO) has approved the suggested changes to its classification manual: The International Classification of Diseases and Related Health Problems, 10th Revision (ICD-10). Chapter V of the ICD-10 on Mental and Behavioural Disorders consists of a detailed classification of over 300 mental and behavioral disorders and includes several categories that are related to sexuality and gender identity.

Since the beginning of the classification's revision process, a number of working groups for different disorder areas have been in charge of reviewing current evidence and providing recommendations for the revision of specific diagnostic categories.[1] The Working Group on the Classification of Sexual Disorders and Sexual Health, responsible for reviewing and making recommendations for categories related to sexuality, proposed the creation of a new chapter on Conditions Related to Sexual Health.[2] This chapter would contain revised classifications of sexual dysfunctions and gender identity−related disorders, currently listed under the ICD-10 Mental and Behavioural Disorders.[2] Another proposed recommendation was the creation of a section on paraphilic disorders that will replace the ICD-10 section, F65, on Disorders of Sexual Preference.[2] The main reasoning behind such modifications is that there has been significant advances in research on disorder categories related to sexuality and gender identity, as well as changes in social norms, attitudes, policies, and human rights laws relevant to these disorder groupings.[1] For example, the inclusion of behaviors in the F65 section that are practiced in a consensual way without any harm—such as fetishistic transvestism, fetishism, or consensual sadomasochism—labels these behavioral variations as mental disorders, stigmatizing both the behaviors and those practicing them. Furthermore, these diagnoses and their characterization as mental disorders have been used to discriminate against individuals with atypical sexual practices and, in some cases, as justifications for mistreatment and violations of due process and civil and human rights. This is even more true for males who are at a higher risk of being diagnosed with, and more stigmatized for, atypical sexualities because of gender bias of clinicians.[3]

Proposed diagnostic guidelines characterize paraphilic disorders as "persistent and intense patterns of atypical sexual arousal, manifested by sexual thoughts, fantasies, urges, or behaviors, involving others whose age or state renders them unwilling or unable to consent and on which the person has acted or by which he or she is markedly distressed".[2 p.1536] Moreover, according to a report on proposed diagnostic guidelines for International Classification of Diseases and Related Health Problems, 11th Revision (ICD-11), paraphilic disorders include (i) Exhibitionistic Disorder, (ii) Voyeuristic Disorder, (iii) Pedophilic Disorder, (iv) Coercive Sexual Sadism Disorder, and (v) Frotteuristic Disorder.[2] Furthermore, arousal patterns involving solitary behaviors or consenting individuals may be considered as paraphilic disorders only if they are associated with marked distress by the individual. In that case, a diagnosis of unspecified paraphilic disorder is considered.

The WHO Department of Mental Health and Substance Abuse has developed a legal and policy assessment guide to be implemented in countries of different WHO regions and of which the purpose is to examine a country's potential legal and policy considerations that relate to the proposed classification of paraphilic disorders (Appendix A). Its publication, thus, follows extensive field testing led by more than 200 clinicians and other experts from more than 35 countries and from all WHO regions.[4] This article presents findings on the analysis of the existing laws and policies that are relevant to paraphilic disorders in Lebanon.

METHODS

In this study, a systematic review of the literature was conducted, along with semistructured interviews with key informants.

Firstly, primary data collection was carried out from January to April 2015. Participants were recruited following a purposive sampling constructed to specifically target policymakers, as well as legal and mental health professionals involved in the making or implementation or implication of laws and policies regarding paraphilias in Lebanon. Initial interviews were followed by snowball sampling, whereby interviewees referred the researchers to other potential informants. Moreover, a qualitative approach was used to gather information-rich data involving beliefs and practices, based on semi-structured interviews to facilitate open discussion. The second author (H.K.) conducted the interviews, each interview averaging 30 minutes in length, and the location was decided by each of the informants. Interviews focused on 5 main themes: (i) Review of laws related to sexual behaviors; (ii) relationship between legal and clinical issues for non—forensic health professionals; (iii) implications of mental disorders classification for forensic practice; (iv) other implications of ICD-11 Paraphilic Disorders proposals; and (v) contextual issues. The interview guide was based on the Assessment Guide for Legal and Policy Issues Related to Proposals for Paraphilic Disorders in WHO's ICD-11 (Appendix A). Most of the themes were therefore identified in advance by the Assessment Guide of the WHO; however, some themes were derived from the data, as the semi-structured and open-ended format of the interview allowed new themes to emerge from the data. All interviews were carried out in Arabic and were audio-recorded following participants' consent.

Recordings were transcribed verbatim, and selected quotes were translated to English by the second author. Given the iterative nature of the qualitative research process, preliminary data analysis and data collection were conducted concurrently, allowing the authors to cease recruitment on achieving data saturation and to modify interview guides for subsequent interviews to incorporate emerging themes. Thematic analysis methods were used as it allows themes and patterns to emerge from the data.[5] After repeated data immersion to gain analytic insight of the data, the second author inductively coded the transcripts. No software was used. The framework for this study was developed using a bottom-up approach based on key themes emerging from the data.[6] Checking on the emergent themes was conducted by asking 5 participants for feedback, with relevant suggestions incorporated into the results.

This project received a retrospective ethics approval from Saint Joseph University (USJ-2019-229), whereby the ethics committee considered that the publication raised no ethical objection and gave approval for the conduct of the research.

On the other hand, a systematic review of the literature about the legal and policy framework in Lebanon as relevant to paraphilic disorders was conducted. Any paper design was screened, in English, French, and in Arabic, including but not limited to legal texts including the Lebanese Penal Code and court decisions, news, editorials, commentaries, opinion pieces, technical reports, primary studies, narrative reviews, systematic reviews, and policy briefs. Specifically, the review of relevant legislations and published case laws was conducted through Lebanese legal case law databases including Cassandre, Idrel, Al Nashra, and Al Mustachar, as well as a Lebanese Non-Governmental Organization (NGO) platform "The Legal Agenda". Other electronic databases used were Medline, Scopus, Google Scholar, and JSTOR. Both index terms and free text words were used for the following concepts: paraphilic disorders, sexual offenders, and forensic practice. Some of the Medical Subject Headings terms used were "paraphilias", "sexual offense", "health care system", "legal system", "laws", "policies", and "criminal responsibility", and key words used were "paraphilias", "sexual offense", and "laws and policies". The first 2 authors screened the articles in duplicate and independently for potential eligibility based on the assessment guide. Then, they retrieved the full texts judged as potentially eligible, according to the themes mentioned previously, by at least 1 of the 2 reviewers, and resolved disagreements by discussion. In addition, consulted were the Lebanese Penal Code and the Medical Code of Ethics (Hard copy) and Lebanese Legal texts (hard copy).

RESULTS

In total, 9 men and 8 women were interviewed: 1 representative from the Ministry of Public Health (MoPH; the head of the National Mental Health Program), a representative from the Ministry of Justice, a representative of the Ministry of Social Affairs, representatives from each of the NGOs working in child protection (The Union for the Protection of Juveniles in Lebanon [UPEL], ABAAD [the Resource Center for Gender Equality], stands for Zero tolerance to Sexual Exploitation & Abuse in Arabic, and Himaya), 2 psychiatrists and 1 psychotherapist from the private sector, 2 social workers from a public primary health care center, the legal counsel of the Lebanese Order of Physicians (LOP), a representative from the National Society Security Fund (NSSF), a representative from the Cooperative of the Civil Servants (CCS), 2 judges for minors, and 1 forensic expert. The literature search resulted in more than 40 texts included, detailed elsewhere in the article. Instead of a descriptive summary of the texts, included is a table (Table 1) that summarizes the relevant findings of this search, along with references to the specific articles in the penal code. The themes presented in the following sections resulted from both the interviews and the literature review. Findings from the literature review are indicated by the reference to the appropriate article, and findings from the interviews are presented as such along with the indication of the informant's status and position.

Table 1. Paraphilic disorders as proposed for the International Classification of Diseases manual (ICD)-11: relevant Lebanese laws and expect impact of changes from ICD-10

Proposed ICD-11 definition[1]	Lebanese penal code or case law
Exhibitionistic Disorder is characterized by a sustained, focused and intense pattern of sexual arousal—as manifested by persistent sexual thoughts, fantasies, urges, or behaviors—that involves exposing one's genitals to an unsuspecting individual in public places, without inviting or intending closer contact. In order for exhibitionistic disorder to be diagnosed, the individual must have acted on these thoughts, fantasies or urges or been markedly distressed by them.	Under chapter 2 related to the "excitement to debauchery and outrage to good morals and public decency", articles 531 and 532 of the penal code criminalize offences against public decency committed by (i) acts and gestures, (ii) speech and communication, and (iii) writings, drawings, photographs, pictures, films, signs and any form of imagery in public. The courts have interpreted these articles broadly as covering any act, or gesture or sign committed or expressed in public and resulting in "scratching the prudency of the public's eye or ear". In this case, acts in which persons with Exhibitionistic Disorder may engage may be criminalized in Lebanon.
Voyeuristic Disorder is characterized by a sustained, focused and intense pattern of sexual arousal, as manifested by persistent sexual thoughts, fantasies, urges, or behaviors, that involves observing an unsuspecting individual who is naked, in the process of disrobing, or engaging in sexual activity. In order for Voyeuristic Disorder to be diagnosed, the individual must have acted on these thoughts, fantasies or urges or been markedly distressed by them.	According to a decision dated 24 October 1966 rendered by the accusation Court of Mount Lebanon, the act of peeking is not criminalized by any penal text in Lebanon and does not fall under article 531 of the penal code related to offences to public decency. However, the only case in which it is criminalized is if it is accompanied by a house trespassing sanctioned by article 571 of the penal code. As such, the act of voyeurism or acts in which persons with Voyeuristic Disorder may engage is not criminalized per se under the Lebanese law.
Pedophilic Disorder is characterized by a sustained, focused, and intense pattern of sexual arousal—as manifested by persistent sexual thoughts, fantasies, urges, or behaviors—involving pre-pubertal children. In order for Pedophilic Disorder to be diagnosed, the individual must have acted on these thoughts, fantasies or urges or been acutely distressed by them	The Penal code criminalizes sexual acts involving individuals whose age or state makes them unable or unwilling to consent. According to articles 504 and 505, the act of sexual intercourse outside marriage with another person is criminalized whenever the latter is (i) a minor under 18 years or (ii) a person incapable of resisting due to a physical or a psychological insufficiency or because of the use towards them of fraudulent means. In the event that the minor is above 15 years old, the act of sexual intercourse is considered a misdemeanor punishable by a prison sentence of up to 2 years whereas when it involves a minor under the age of 15 it is considered a felony punishable by hard labor (paragraph 3 of article 505). According to articles 508 and 509, the act to commit an offence to decency on an individual is criminalized whenever (i) the latter is a minor under the age of 15 or (ii) the offender has used fraudulent means or has taken advantage of the physical or psychological infirmity of an individual in order to commit the obscene act. The case law has long insisted on the indifference of the consent of the minor regarding the criminalization of the previously listed acts. Furthermore, under article 519 of the penal code criminalizes the acts of touching in an indecent manner (i) a minor, male or female, under the age of 15 or (ii) a woman or a girl between the ages of 15 and 18 without her consent and article 520 also criminalizes the act of making an indecent proposal or professing indecent statements to a minor not having completed the 15th year of age. The case law distinguishes between acts that fall under offences to decency and those that fall under the inappropriate touching of a minor by mentioning the nature of the body parts involved in the criminalized acts. Offences to decency, punishable by articles 508 and 509, involve touching the "intimate parts" of an individual whereas article 519 criminalizes all other forms of caressing. As such, acts in which persons with Pedophilic Disorder may engage may be criminalized under the Lebanese law.

(continued)

Table 1. Continued

Proposed ICD-11 definition[1]	Lebanese penal code or case law
Coercive Sexual Sadism Disorder is characterized by a sustained, focused and intense pattern of sexual arousal—as manifested by persistent sexual thoughts, fantasies, urges or behaviors—that involves the infliction of physical or psychological suffering on another individual who is unwilling to engage in or who cannot consent to such activity. In order for coercive sexual sadism disorder to be diagnosed, the individual must have acted on these thoughts, fantasies or urges or been markedly distressed by them.	Apart from the articles mentioned in the Pedophilic section that also apply to this disorder, the penal code criminalizes sexual acts committed against an adult's will by means of violence or threats as per articles 503 and 507 of the penal code, as well as sexual acts committed on minors or incapable adults. As such, acts in which persons with Coercive Sexual Sadism may engage may be criminalized under the Lebanese law.
Frotteuristic Disorder is characterized by a sustained, focused and intense pattern of sexual arousal—as manifested by persistent sexual thoughts, fantasies, urges, or behaviors, that involves touching or rubbing against a non-consenting person in crowded public places. In order for Frotteuristic Disorder to be diagnosed, the individual must have acted on these thoughts, fantasies or urges or been markedly distressed by them.	Apart from the articles mentioned in the Exhibitionistic section that also apply to this disorder, according to article 507 of the Penal code, the act to commit an offence to decency on an individual without his consent is criminalized. As such, acts in which persons with Frotteuristic Disorder may engage in may be criminalized under the Lebanese law.
According to the ICD-11 proposal, Other Specified Paraphilic Disorders Involving Non-Consenting Individuals are characterized by a persistent and intense pattern of atypical sexual arousal, manifested by sexual thoughts, fantasies, urges, and/or behaviors, in which the focus of the arousal pattern involves others whose age or status renders them unwilling or unable to consent (eg, pre-pubertal children, an unsuspecting individual being viewed through a window, an animal). A disorder is diagnosed if the person has acted on the arousal pattern or is markedly distressed by it. Same as pedophilic because these people are also incapable of giving consent.	Same as Pedophilic Disorder. As such, acts in which persons with Other Specified Paraphilic Disorders Involving Non-Consenting Individuals may engage in may be criminalized under the Lebanese law. Article 534 of the penal code punishes the act of performing "sexual intercourse contrary to nature" for up to 1 year imprisonment. According to a penal judge, this article may also be interpreted as criminalizing sexual intercourse performed on an animal. It could also be used for acts related to sexual intercourse performed on corpses. In that regard, some provisions in the Lebanese law may be interpreted as criminalizing sexual acts performed on corpses and animals specifically article 479 of the penal code criminalizing mutilation of corpses, article 762 criminalizing the abuse of animals and articles 4 and 26 of law number 47 dated 5 September, 2017 related to the protection of animals prohibiting inflicting suffering on animals outside the extent permitted by law.
According to the ICD-11 proposal, Other Specified Paraphilic Disorders Involving Solitary Behavior or Consenting Individuals are characterized by a persistent and intense pattern of atypical sexual arousal, manifested by sexual thoughts, fantasies, urges, and/or behaviors, in which the focus of the arousal pattern does not A disorder may only be diagnosed if 1) the person is markedly distressed by the nature of the arousal pattern and the distress is not simply a consequence of rejection or feared rejection of the arousal pattern by others; or 2) the nature of the paraphilic behavior involves significant risk of injury or death (eg, asphyxophilia). An arousal pattern that does not involve individuals who are unwilling or unable to consent, and is not associated with marked distress or significant risk of injury or death, is not considered a disorder.	None.

(continued)

Table 1. Continued

Proposed ICD-11 definition[1]	Lebanese penal code or case law
Sadomasochism (deletion recommendation): If consensual behavior is involved, this arousal pattern could be classified as in ICD-11 as Other Paraphilic Disorder Involving Solitary Behavior or Consenting Individuals, if accompanied by marked distress that is not entirely attributable to rejection or feared rejection of the arousal pattern by others (eg, a partner, family, society) or by significant risk of injury or death. If an arousal pattern focuses on the infliction of suffering on non- consenting individuals, it may be classified in ICD-11 as Coercive Sexual Sadism Disorder.	To our best of knowledge, there is no text in the penal code criminalizing sadomasochism directly and the courts have not yet been called to rule on that matter. Thus, the proposed elimination of the category Sadomasochism in the ICD-11 would have no forensic impact in Lebanon. However, articles 554 to 559 of the penal code determine the conditions upon which a person may be held criminally liable in the case of personal injuries inflicted on another and do not distinguish in the determination of the culpability between consensual acts inflicted on the victim and non-consensual acts. As such, consensual sadomasochism as well as non-consensual sadomasochism resulting in personal injuries may be criminalized regardless of the consent of the victim at the time of the act. Furthermore, in the case of an injury causing for the victim an illness or an incapability to work for more than 10 days, renunciation by the complainant does not extinguish public prosecution.
Fetishism (deletion recommendation): In ICD-11, this arousal pattern may be classified as Other Paraphilic Disorder Involving Solitary Behavior or Consenting Individuals, if accompanied by marked distress that is not entirely attributable to rejection or feared rejection of the arousal pattern by others (eg, a partner, family, society) or by significant risk of injury or death.	None.
Fetishistic transvestism (deletion recommendation): In ICD-11, it may be classified as Other Paraphilic Disorder Involving Solitary Behavior or Consenting Individuals, if accompanied by marked distress that is not entirely attributable to rejection or feared rejection of the arousal pattern by others (eg, a partner, family, society) or by significant risk of injury or death.	Fetishistic Transvestism is not prohibited unless the individual acts on it in certain circumstances and specifically according to article 521 of the penal code if a man "dresses up as a woman and enters a women-only designated place or a place that is forbidden for him to enter".
Multiple disorders of sexual preference (deletion recommendation): This ICD-10 category was not considered to be clinically informative. Multiple paraphilic disorder diagnoses may be assigned under the proposed ICD-11 system.	None.

Health System in Lebanon Including Policies and Laws Related to Mental Health Care Provision and Relevance to Paraphilic Disorders

The general government expenditure on health in Lebanon constitutes 10.7% of the total government expenditure.[7–9] Similar to the wider health-care system in Lebanon, mental health services are divided between a poorly resourced public sector and a highly expensive private sector.[10] Psychiatrists and psychotherapists in Lebanon opt to develop their own private practice, which tends to be expensive and not easily accessible to all persons, especially in remote or rural areas where these services are scarce.[10] The number of psychiatrists is limited, with 62 psychiatrists registered in the Lebanese Psychiatric Society as of 2009.[11]

Psychiatric hospitalization in the private sector occurs in private hospitals and is very costly (eg, 1 night of hospitalization can cost between 50% and 70% of the Lebanese minimum monthly wage).[10,11] Moreover, private health insurance does not recognize any of the psychiatric conditions; thus hospitalization, private consultations, psychiatric medications, and even blood tests prescribed by psychiatrists are not covered by private health insurance.[9–11] The public sector, on the other hand, provides full hospitalization coverage through the MoPH in only 3 institutions in Lebanon that are exclusively psychiatric hospitals.[10,11] Such hospitalizations often result in the institutionalization of persons with chronic mental health conditions (MHCs) (eg, schizophrenia); this is partly the consequence of the lack of mental health care in public primary health-care settings, such as outpatient facilities for treatment, follow-up, and social rehabilitation.[10,11] This implies that mental health care that is reimbursed by public services is mainly in inpatient settings, making access to outpatient mental health care costly in the private sector and poorly available in the public sector.[9–11] In fact, the amount of the MoPH's budget allocated to mental health services is not publicly available, but the budget includes a fee paid per patient to each hospital or, more commonly, an arbitrary lump sum paid to the hospitals.[11]

Other coverage systems include the NSSF that covers psychiatric hospitalizations in only 1 of the 3 psychiatric institutions cited previously, as well as the psychiatric medications and part of the private consultation fees.[10] Similarly, the army covers health for its employees and their families as well as medications, a percentage of the consultation fees, and hospitalizations in 1 of the 3 psychiatric institutions.[10] Employees in the public sector also have public health insurance through the Cooperative of Civil Servants that covers psychotropic medications, a percentage of the private consultation fees, and hospitalization in a psychiatric institution.[10] Some private hospitals that have a psychiatry department include spaces for a few beds covered by the MoPH, the NSSF, the army insurance, or the CCS.[10] However, according to the interviews with mental health professionals in our study, those are merely individual initiatives that remain insufficient and most of the hospitalization covered by the NSSF and the CCS occur in psychiatric institutions rather than private hospitals.

Therefore, there is a marked gap between highly expensive private services that can ensure proper outpatient care and short-term hospitalization, and the public services that are mostly centered on hospitalization in psychiatric institutions. NGOs try to fill this gap by providing some mental health services, but they often target specific populations (ie, at-risk populations such as refugees or victims of violence and torture).[10,11] Yet, these inconsistent and fluctuating initiatives cannot replace a coherent national mental health policy, according to the MoPH representative and mental health professionals interviewed.

In this context, the National Mental Health Programme (NMHP) was launched in May 2014 within the MoPH with the support of the WHO, United Nations International Children's Emergency Fund, and International Medical Corps.[12,13] The NMHP aims to reform mental health care in Lebanon by integrating mental health into primary care, through coordinating with NGOs to strengthen the outpatient mental health services in the public sector and to create community-based (outpatient) mental health care services.[12,13] According to the interview with the head of the NMPH, fifty primary health-care centers participated in 2014 in the training of staff and physicians on assessment, identification, management, and referral of mental health cases using the Mental Health Gap Action Program Intervention Guide.[14] The head of the NMPH specified that the training program did not include any chapter or section about paraphilias or paraphilic disorders.

With this complex organization of the mental health care system in Lebanon, between a corporatist public coverage limited to specific beneficiaries (civil servants, employees in the formal private sector, the army, and so on) and an expensive private sector that currently runs with little to none legislative regulation, there is no efficient mental health act.[10,15] The treatment of paraphilic disorders would follow the treatment of all MHCs in Lebanon that include services in inpatient and outpatient care delineated previously. The interviews revealed that no specific services for paraphilic disorders are available within these health-care systems and that paraphilic disorders are considered to be a matter of specialists and not manageable in a primary care setting. However, according to the MoPH representative and head of the NMHP, the MoPH relies on ICD classification for diagnosis and subsequent coverage, and therefore, the changes from ICD-10 to ICD-11 would theoretically influence the availability or coverage for the treatment of these disorders by the MoPH. Yet, given the lack of services relevant to the treatment of persons with paraphilic disorders within the public sector, it seems that the change in diagnostic classifications would not have an impact in practice in the current context.

The Legal Framework and the Mental Health Evaluation and Treatment in the Lebanese Criminal Justice System: The Case of Paraphilic Disorders

The findings of this section are results from the literature review, mainly the study of the Penal Code and of the Lebanese published case law.

The Lebanese law does not criminalize thoughts, fantasies, urges, states of mind, nor mental conditions. In fact, when consulted on the possibility to promulgate a bill criminalizing "sexual deviance" in 1966, the Committee of Legislation & Consultations issued its opinion number 321/1966 against such criminalization stating that "according to criminal law principles, the legislator does not criminalize mental, physical, health or financial states but specific acts should they be committed" as the legislator is not concerned with "individual's feelings and interests but exclusively with acts they commit since investigating an individual state of mind involves a violation of one of the most basic guarantees that derive from personal freedom (…). The bottom line is that a person may be held liable for actions he or she committed but may not be held liable for what he or she thinks or feels."[16] To that effect, the Penal code requires the manifestation of the criminal intent by means of a specific act. A crime is therefore conditioned by such exteriorization constituting the material element of the crime.[17]

As such, the penal law identifies certain sexual acts or behaviors, but it does not directly refer to patterns of atypical sexual arousal that do not manifest in precise behaviors or acts. In a decision dated January 29, 2004, the Court of Cassation considered, regarding indecent acts, that it is required "for the act to have reached the stage of direct affirmative action affecting intimate places of the victim's body".

In view of the aforementioned statement, specific sexual acts that qualify as a crime by the Lebanese law are considered as "offences against morals and public morality" (rather than impairment of mental and physical integrity). The motives of the legislator affect the criteria for criminalization. As atypical sexual acts are prohibited to protect "morals and public morality," the element of consent is not taken into consideration to exclude criminalization unless the sexual acts in question involve 2 adults that are not bound by marriage engaging in them privately and with no bodily harm being inflicted upon each other as demonstrated in the following parts of the article.

The penal code first criminalizes sexual acts that are undertaken with others without their consent by means of violence or threats or with individuals who were unable to consent by age or by status, specifically incapable adults and minors, for which the case law has long insisted on the indifference of signs that could be interpreted as consent.[18–24] It however does not criminalize marital rape but only physical harm induced to obtain one's "marital rights".[25]

Accordingly, acts in which individuals with pedophilic disorder, coercive sexual sadism disorder, frotteuristic disorder, and other specified paraphilic disorders involving nonconsenting individuals may engage in fall under the scope of the penal code.

As to consensual sadism, there is no text in the penal code that addresses it directly, and to our knowledge, the courts have not yet been called to rule on that matter. Regarding criminal liability in the case of personal injuries inflicted on another, the penal code sets the complaint of the victim as a condition for public prosecution in the case of a personal injury causing the victim an illness or an incapacity to work not exceeding 10 days. It does not, however, distinguish in the determination of the culpability between consensual acts inflicted on the victim and nonconsensual acts. As such, consensual sadism resulting in personal injuries may be criminalized regardless of the consent of the victim. Furthermore, in the case of a personal injury causing an illness or an incapacity of work exceeding 10 days for the victim, renunciation by the complainant does not extinguish the public prosecution.

The penal code also punishes certain sexual behaviors regardless of the consent of the individual it was committed with and based solely on the nature of the act interpreted within the frame of the existing social norms. As such, article 534 punishes the act of performing "sexual intercourse contrary to nature", for up to 1-year imprisonment, that most courts have interpreted as criminalizing same-sex relations[26–28] as well as anal sex between a man and a woman.[29–36] The Court of Cassation has confirmed the neutrality of the consent as an element of criminalization in the cases of "intercourse against nature" as it considered that the prosecution is not conditioned upon the victim's complaint.[37] Importantly, according to a penal judge, this article may also be interpreted as criminalizing sexual intercourse performed on an animal. Similarly, it could also be used for acts related to sexual intercourse performed on corpses. Thus, in that regard, some provisions in the Lebanese law may be interpreted as criminalizing sexual acts performed on corpses and animals, specifically the prohibition of mutilation of corpses and the abuse of animals or inflicting suffering on them outside the extent permitted by law.[38–40] Accordingly, acts in which individuals with other specified paraphilic disorders involving nonconsenting individuals may engage fall under the scope of the penal code.

Furthermore, the penal code criminalizes offences against public decency committed by acts, gestures, speech, communication, writings, drawings, photographs, pictures, films, signs, and any form of imagery in public. The courts have interpreted these articles as broadly covering any act, gesture, or sign committed or expressed in public that results in scratching the prudency of the public's "eye or ear". As such, these articles include the acts of kissing accompanied by exterior sexual contact in public,[41] photographing nude individuals,[42] displaying pornographic videos,[43] sexual gestures such as putting one's hand on his penis in public,[44] insulting another individual with the middle-finger,[44] or sending pornographic photos through Whatsapp.[26–28] In this

case, acts in which persons with exhibitionistic disorder or frotteuristic disorder engage in may be criminalized in Lebanon.

Regarding Voyeurism, according to a decision by the Court of Mount Lebanon, the act of peeking is not criminalized by any penal text in Lebanon and does not fall under offences to public decency.[45] The only case in which it is criminalized is if it is accompanied by a house trespassing. As such, the act of Voyeurism or behavior in which persons with Voyeuristic Disorder may engage in is not criminalized per se under the Lebanese law.

Finally, fetishistic transvestism is not prohibited unless the individual acts on it in certain circumstances and specifically if a man "dresses up as a woman and enters a women-only designated place or a place that is forbidden for him to enter."

The articles relevant to acts that individuals with paraphilic disorders may engage in are found in Table 1.

Adjudication of Sex Offenders in Lebanon

The findings of this section result from the study of the penal code and the case law.

The penal code, as mentioned, thus focuses on possible criminal acts related to paraphilic disorders without characterizing the pattern of sexual interest that may underlie them (eg, pedophilia), as it does not refer to any of these disorders. The sentences resulting from the commitment of these crimes by adults range from temporary hard labor (ie, from 3 to 15 years) for rape and offences to decency and from 6 months to 2 years of imprisonment for sexual intercourse with a minor above 15 years of age, seduction, indecency, and violation of women-only designated places, as well as for the "excitement to debauchery and outrage to good morals and public decency."

Regarding adolescent sex offenders, the law dated June 6, 2002 related to the "protection of at-risk children or children violating the law" sets the minimum age of criminal responsibility at 7. The measures available to the courts as sentences for juveniles include noncustodial measures consisting of reprimands, protection, monitored freedom, and work of general interest, or reparation and custodial measures including correction, disciplining, and reduced sentences. Therefore, power is given to judges to defer execution of sentences or to replace them with rehabilitation measures. The law also establishes a distinction among the measures available to courts as sentences for juveniles according to the age of the juvenile in question. It excludes from the available sentencing measures disciplining and reduced sentences for children between the ages of 7 and 12 and reduced sentences for children between the ages of 12 and 15. As such, children between the ages of 15 and 18 may be punished by sentences reduced by half in the case of contraventions and misdemeanors to 5 to 15 years of imprisonment in the case of felonies punished by the death penalty or life-time hard labor or by half in the case of other felonies.

In light of what was discussed previously, the sentencing of sex offenders between the ages of 15 and 18 is thus reduced by half in all of sexual crimes as explained previously.

Furthermore, the law provides for rules of procedures specific to juveniles. It also imposes the notification of the child's parents or tutors before the start of any investigation as well as the presence of a social worker throughout the proceedings. The child is prosecuted in front of the juvenile jurisdiction, unless the crime was committed by both the child and an adult, which would then have grounds for prosecution in front of the competent court having the jurisdiction to oversee crimes committed by adults but is sentenced by the juvenile jurisdiction.

Criminal Responsibility Relevant to Paraphilic Disorders

The Lebanese penal code addresses the issue of criminal responsibility of individuals diagnosed with mental disorders by distinguishing between individuals acting under a state of "insanity" that causes them to lose awareness or willpower and those acting under a state of a "congenital or acquired mental deficiency" resulting in a diminishment of awareness or "freedom of choice." While the former are exempt from punishment (but may still be confined to a psychiatric institution) and should sufficient evidence be brought of MHC resulting in a total loss of consciousness or awareness,[46,47] the latter may only invoke a substitution or a commutation of the penalty should it be assessed however that the mental disorder in question resulted in a diminishment of awareness or "freedom of choice" at the time of the commission of the criminalized act. It should be noted within that regard that the existence of a mental disorder is not sufficient in itself to invoke an exemption from punishment or even a substitution or a commutation of the penalty because what is required is the proof that such mental disorder affected awareness and the capacity of making free choices.

There is no requirement for forensic experts, whether by the Decree number 7384/k dated 14th November 1946 regarding forensic experts or the law n. 288 dated 1994 relevant to the medical ethics as amended by law n. 240 dated 2012, to adopt a specific international diagnostic system.

According to the interviews with the forensic expert, as well as with representatives from NGOs working in child protection and mental health professionals, the Diagnostic and Statistical Manual of Mental Disorders (DSM) is used in the daily practice of professionals in Lebanon, while the ICD is used by the MoPH for the diagnosis and subsequent coverage of MHCs, as stated earlier. However, the forensic expert interviewed explained that the psychiatric expertise in Lebanese courts lacks standardized criteria for diagnoses; it is usually based on clinical interviews that aim at determining if the person is in a "state of insanity that causes him to lose awareness or willpower." Here, the word "insanity" as mentioned in the penal code, means proof of an MHC resulting in a total or partial loss of consciousness or

awareness, to conclude the absence of responsibility.[46,47] Finally, psychiatrists may use international guidelines to assess for the loss or diminishment of awareness at the time of the act; however, those guidelines are neither evaluated nor imposed by the courts.

In the case of individuals guilty of sexual crimes, to the best of our knowledge, only 2 decisions have referred to the ICD classification. In both decisions, the removal of homosexuality from the ICD classification has been one of the determining elements relied upon by the rulings in stating that article 534 of the penal code is not applicable to sexual intercourse between same-sex as homosexuality is no longer classified as a disorder and therefore may not be considered as "contrary to nature."[30,31]

The same argumentation may hardly be applied in the case of an individual with a paraphilic disorder committing acts which fall under the scope of the penal code as explained previously because those acts are criminalized depending of the case law's interpretation of "public morality" and regardless of any medical or clinical definitions or any reference to "the order of nature," which by interpretation could refer to international classifications.

In light of what was discussed previously and taking into consideration that the penal code does not criminalize sexual patterns and as long as there is no specification that paraphilic disorders result in a total loss of consciousness or awareness, the diagnostic classification of mental and behavioral disorders (whether ICD or DSM) will not be relevant in the determination nor absence of culpability of individuals with a diagnosed paraphilic disorder.[48–51] However, it might contribute to the diminishment of the criminal responsibility by a substitution or a commutation of the penalty should it be assessed that it resulted in a diminishment of awareness or "freedom of choice" at the time of the commission of the criminalized act. Therefore, as compared with the ICD-10, the categories and definitions in ICD-11 should not create any additional obstacles nor offer any direct additional clarity because the absence of responsibility is assessed on the basis of "total or partial loss of awareness and consciousness" at the moment of the act, rather than on the presence or absence of a specific disorder included in an international classification system. The judge will rely on the psychiatric expertise for this purpose and will expect to see this statement of total or partial loss of awareness rather than a disorder listed in an international classification system. This emerged from all interviews with relevant informants, as well as from the study of the penal code and court decisions where the determining element relies on the existence of awareness when the act was committed rather than on the diagnosis of a mental disorder.

Relationship Between Legal and Clinical Issues for Non–Forensic Health Professionals

In terms of non–forensic health professionals, law n. 288 dated 1994 relevant to the medical ethics as amended by law n. 240 dated 2012 states that "a physician shall not report a crime by a patient who confessed to them as having committed the crime. In the event that the physician discovered a crime during a patient's examination, they must report this crime to the public prosecution, also when the physician is convinced that reporting will prevent the concerned person from committing other crimes". Accordingly, if non–forensic health professionals, during the course of their normal clinical work, become aware of sexual crimes that their patients have committed in the past, they would be bound by a professional secrecy obligation and would not be able to report the past crimes to any authority, whereas if they become aware of any sexual crimes that are being committed by their patients at present time, or are at risk of committing in the future, then they are legally required to report these behaviors to the public prosecutor.

Furthermore, the penal code states that any person who discloses a secret that was known to them through their position, career, profession, or art, without having any legitimate reason, is punishable up to 1 year imprisonment and a fine, should such disclosure result in a moral or a physical harm. However, it should be noted that in case the victim of the crime is a child under the age of 18, non–forensic health professionals are relieved from their professional secrecy obligation. In fact, the law specifically states that any reporting to the competent authority made by an individual informed of the conditions of a child at risk by virtue of his position, career, profession, or art is not considered as a violation of the professional confidentiality and is not punishable under the penal code. Within that regard, non–forensic health professionals are obligated to report to appropriate authorities an incapacitated or a minor person's abusive confinement, mistreatment, deprivation, rape, or sexual assault should they notice it in the course of their practice.

For minors, these authorities are the juvenile judge, the police, and the National Child Protection Agency: the "Union for the Protection of Children in Lebanon" (UPEL), a civil authority mandated by the state for the protection of minors in Lebanon. According to a social worker in UPEL, all the reporting from medical doctors is done in practice to UPEL because it is directly accessible to physicians. Procedures are more complicated when they directly involve the juvenile judge or the police. The social worker explained that once reports are registered, UPEL takes immediate action to protect the minor through initial contact with the social worker who visits the child and their family to make an assessment of the risk and harm subjected to the child. UPEL also coordinates with juvenile judges to follow up with the cases of the minors and reports about the abusers.

Furthermore, regarding adult victims of sexual crimes, non–forensic health professionals are required to report to the public prosecution any cases of rape and "offenses against honor" should they notice these in the course of their practice and provided the victim gives a written consent thereto. However, the relevant law (288) does not specify what is implied by "the offense against honor," which is an expression that remains controversial as it can be evaluated subjectively and on the basis of each physician's social and moral norms. Therefore, although a non–forensic

health professional has the obligation to report sexual crimes committed on minors regardless of individual or parental consent, they cannot report a rape or an offense against the honor committed on an adult without the victim's written consent.

Thus, clinicians who do not comply with guidelines on reporting may be subject to civil liability, as the violation of ethical obligations may be considered unprofessional, characterizing their personal liability of the Lebanese obligations and contracts code. They may also be subject to prosecution as per the Lebanese criminal rules of procedure, which states that any individual who refrains from reporting to the public prosecution a crime related to the integrity of the individual is punishable by a fine and to a loss of licensure, according to which the violation of its provisions exposes the committer to the LOP Disciplinary Board. According to the legal counsel of the LOP, complaints targeted toward physicians who do not comply with these guidelines should be presented to the LOP by the patients themselves or a civil organization.

Currently, no data are available about the frequency of reporting and whether physicians follow this law or if they know it even exists. More importantly, the impact of these guidelines on clinicians and on the provision of care as well as the extent to which persons with paraphilic disorders voluntarily access treatment and are aware of health professionals' obligations is unknown. Nonetheless, based on one of the authors' own clinical practice as a psychiatrist, discussing physicians' obligations as per the law with a patient that comes voluntarily for treatment for a paraphilic disorder is considered a part of the treatment. In the Lebanese law, this would apply to pedophilic disorder as it is the only paraphilic disorder that physicians are required to report in a nonforensic context in case the patient shares his or her intention to act upon the sexual arousal toward a minor given that it implies potentially abusing a minor.

DISCUSSION

In essence, the Lebanese mental health system is yet to grow and consider paraphilic disorders as part of its care service. With the complex organization of the mental health-care system in Lebanon, between a corporatist public coverage limited to specific beneficiaries (civil servants, employees in the formal private sector, the army and so on) and an expensive private sector that currently occurs with little to no legislative regulation, there is no efficient mental health act. Furthermore, paraphilic disorders are considered to be a matter of specialists and are not manageable in a primary care setting. In fact, given the lack of services relevant to the treatment of persons with paraphilic disorders, the changes thus from ICD-10 to ICD-11 would not have a great direct influence on the availability and access to care for these disorders, even though the MoPH relies on ICD classifications for diagnosis and potential coverage.

Our research showed that behaviors in which persons with pedophilic disorder, coercive or consensual sexual sadism disorder, frotteuristic disorder, other specified paraphilic disorders involving nonconsenting individuals, and exhibitionistic disorder may engage in may be criminalized under the Lebanese law. In contrast, individuals with voyeuristic disorder or other specified paraphilic disorders involving solitary behavior will not be criminalized under the Lebanese law, as per the study and interpretation of the terms used in the penal code to describe these behaviors. This is explained further in Table 1. It is important to note that these conditions are not specified as such in the penal code or as being specific disorders within an international diagnostic system. Moreover, it would be difficult to assess how our results compare to results from other working groups because the data have not been published as of yet.

The Lebanese legal framework does not officially adopt or impose any diagnostic classification system. However, the MoPH relies on the ICD classification system for the diagnosis and potential coverage of MHCs. As such, forensic medical experts are not bound by any diagnostic classifications, and their main task is to determine if the person was presenting a total or partial loss of consciousness or awareness at the time of the act. Indeed, the absence or diminishment of criminal responsibility is assessed based on this loss or diminishment of awareness or "freedom of choice" as well as, rather than, the presence or absence of an MHC according to specific diagnostic criteria. Therefore, most court decisions that were reviewed pertaining to criminal sexual acts have not referred to any kind of medical or clinical definition but have instead relied on social norms and conceptualizations to define what might be considered an offence to decency or a public indecency.[52,53] This is justified by the fact that criminalized sexual acts are defined according to a precise act such as the act of intercourse with a person unable to consent, or the concept of decency such as the offences to decency discussed previously, which are not a construct of medical or clinical nature but rather one that underlies social norms. A clinical medical diagnosis is only discussed when determining whether an individual might benefit from an exemption of punishment or a substitution or commutation of the penalty as discussed previously, provided it results in a loss or diminishment of awareness. However, here again this diagnosis is not consistently based on 1 manual or the other. Admittedly, then, there are no legal standards or clinical guidelines for the detection, evaluation, and treatment of sex offenders and awareness on individuals with paraphilic disorders within the Lebanese legal system. Nonetheless, the inclusion of these diagnoses in the ICD-11 could potentially aid the MoPH raise awareness on paraphilic disorders, which could potentially positively affect the handling of individuals with paraphilic disorders by mental health professionals or the courts in the future.

In fact, many proposed changes in the ICD-11 aim to provide a framework for treatment for individuals with paraphilic disorders who have not yet committed or who have committed but have not been charged with a criminal act, therefore helping to prevent future offenses. Therefore, it is important to propose that all individuals who get in contact with the court or are charged

with criminal offenses involving any paraphilic acts be evaluated for the presence of various disorders. Most important, however, is the proposition of providing treatment for those who are identified, whether before, during, or after their criminal sentence; as such, custom and patient-centered care for these individuals does not yet exist in Lebanon.

To highlight relevant results of this study, the descriptive summary table (Table 1) included laws and policies pertaining to the changes proposed in the ICD-11. Moreover, the interviewing technique used in this study ensured that participants spoke about issues pertinent to their experience and expertise and helped achieve data saturation. Nonetheless, although this is a review, a quality and bias screening tool was not used because of the search mostly pertaining to legal laws and cases instead of research articles. Also, no software was used to analyze the qualitative data from the interviews. In addition, some of the documents reviewed were in Arabic, and therefore, some nuances, while translating the essential findings to English, might have been lost in translation. It could be argued though that this was protected because of the researchers being both native Arabic speakers and having superior English academic skills.

CONCLUSION

The treatment of paraphilic disorders would follow the treatment of all MHCs in Lebanon as no specific services for paraphilic disorders are available within these health-care systems. Legally, sexual crimes in Lebanon are not qualified as such according to the individual's urges, fantasies, or state of mind. An individual diagnosed with a paraphilic disorder is not therefore guilty of any crime should he not act on this disorder by committing acts that fall under the scope of the penal code. An analysis of sexual acts that qualify as crimes reveals that the element of consent is rarely taken into consideration as most sexual crimes are defined as such with reference to violation of social norms, primarily "morals and public morality." Therefore, a change in the diagnostic classification of mental and behavioral disorders (ICD or DSM) should not be a factor in their definition. Furthermore, in the course of enforcing criminal sanctions on individuals diagnosed with a mental disorder, the determining factor will be the individual's state of awareness at the time of the act. Psychiatric expertise initiated in that context lacks standardized criteria for diagnosis and is not bound by law to rely on international classifications; it is usually based on nonstructured interviews. Should it be assessed that the individual was fully aware of the consequences of his or her act, the paraphilic disorder diagnosis should not play any role in the sentencing.

Therefore, as compared with the ICD-10, the categories and definitions in ICD-11 should not create any additional obstacles nor offer any direct additional clarity as the diagnostic classifications of mental disorders (ICD or DSM) are not relevant to the definition of criminal sexual acts in Lebanon and are not mentioned by the legal framework. However, the inclusion of these diagnoses in the ICD-11 could potentially aid the MoPH raise awareness on paraphilic disorders, which could positively affect the handling of individuals with paraphilic disorders by mental health professionals or courts in the future.

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SUPPLEMENTARY DATA

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