



Lebanon

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Alkarama recalls that it concentrates its work on four priority areas: arbitrary detention, enforced and involuntary disappearances, torture, and extrajudicial executions. We base our work primarily on the documented individual cases we submit to UN Special Procedures and Treaty Bodies, as well as our contacts with local actors including victims, their families, lawyers and human rights defenders.

Lebanon

1. Background

The first Lebanese constitution was adopted in 1926 under the French mandate, before the country gained its independence in 1948. Paragraph C of the Preamble to the Constitution states that "Lebanon is a parliamentary democratic republic based on respect for public liberties, especially (...) the respect for social justice and equality of rights and duties among all citizens without discrimination." Similarly, Article 7 guarantees equality of citizens, not only before the law but also in the enjoyment of civil and political rights. Article 24 and Article 95 ensure the equal sharing of parliamentary seats between Christians and Muslims. The Taif Agreement signed on 23 October 1989 in Saudi Arabia by the various warring parties to end the civil war (1975-1990) introduced several constitutional amendments and defines the country's relationship with Syria.¹ It also provides for the disarmament of the armed factions, something which has not yet been achieved. Since 2005, Lebanon has been significantly destabilized by various events: the assassination of former Lebanese Prime Minister Rafik Al-Hariri on 14 February 2005 and the resulting accusations against Syria, UN Resolution 1559² which forced Syria to withdraw its troops in 2006, the Israeli offensive against Lebanon in 2006 and the multiplication of attacks against political figures. In addition, there were also frequent clashes in the north between the Lebanese army and Fatah Al-Islam in 2007. Lebanon has often been a fertile ground for regional and international religious power struggles between opposed political/religious groups. The tension between the protagonists reached new heights during the latest political crisis in Lebanon, during which the state was left without a President of the Republic for several months. This period was marked by armed clashes, strikes and radical political discourse. The election of Michel Suleiman, in May 2008, following the Doha Agreement, eased the situation in the country. Nevertheless, the Lebanese fear that the lull will be short; specifically, any further aggression by Israel would plunge the country back into pain and chaos. It only takes the smallest political event to highlight the fragility of the Lebanese system; parliamentary or presidential elections, forming a new government, etc. It is a weakness that could lead Lebanon into another civil war if the regional and international powers intervene in its internal affairs.

2. The judicial system and courts of exception

Changes were made to the Lebanese Penal Code of 1 March 1943 by the law of 01/11/1958, which is also known as the Counter-Terrorism Law. These changes expanded the scope of crimes punishable by the death penalty and brought many cases that had previously fallen within under the jurisdiction of the ordinary criminal courts to the exclusive jurisdiction of military tribunals. These military courts are composed of judges who are army officers and do not necessarily have any legal training. The main body in this context is the Permanent Military Court, based in Beirut and composed of five judges, of whom only one is a civilian.

Article 2 of this Law provides for particularly severe punishment for merely attempting to assault or incite to aggression. Article 6 also provides for the death penalty to be handed down to any person who commits an act resulting in the destruction of part of a public building, an industrial plant, ship and other facilities or the disruption of communications and transport. It should be noted that this law is criticized by some Lebanese groups that campaign for the abolition of the death penalty. As for the extension of the jurisdiction of military courts to hear certain criminal offenses, many lawsuits have been launched in recent years before these courts against civilians for offences which do not appear to have been of a military nature.

On 15 October 2008, Alkarama submitted the case of 13 people severely tortured by army intelligence officers to the Special Rapporteur on Torture. All 13 were arrested in connection with the tragic events in the Nahr El Bared camp. This confrontation, which took place from May to September 2007, pitted the regular Lebanese army against an armed group holed up in the refugee camp of the same name, located in the northern suburbs of Tripoli. Most of those arrested had no connection with the conflict. The arrests took place without judicial warrants and without the

grounds for the arrest being notified. Members of military intelligence in civilian clothes carried out most of the arrests.³

The legal framework applicable in military courts is set out in law No. 24 of 13/4/1968. The guarantees provided under this Act are less than in ordinary courts, in particular regarding the right of defence and the right to a fair and public trial. This difference contradicts the principle of equality of citizens before law.

The military tribunals answer to the Ministry of Defence, which has a direct authority over these courts. Pressure from human rights organisations and the Minister of Justice to abolish the jurisdiction of military courts to try civilians resulted in the adoption of a bill drafted by the Department of Justice Law Reform Committee. This new bill, however, did not meet the expectations of human rights defenders because it merely organizes the activities of the military justice system; it does not limit its power and jurisdiction.

The machinery of exceptional justice that comprises the military courts also includes the Judicial Council, which was created by Resolution No. 1905 of 12 May 1923 and also exercises special powers. Specifically, it deals with any matters concerning the internal or external security of the state such as treason, espionage and breaches of security or national unity, etc. The Judicial Council does not have its own investigative structures – as a result, its decisions are often based on preliminary investigations conducted by other security services, particularly military intelligence. This means that confessions extracted under torture are often used against the accused.

The Judicial Council is also seen as a political body because cases can only be referred to it through a decree issued by the Council of Ministers, in violation of the principle of separation of powers and judicial independence. Its decisions are final and not subject to appeal, in violation of the right to a review by a higher tribunal.

3. Arbitrary detention and enforced disappearances

Article 367 of the Lebanese Penal Code prohibits arbitrary detention, and severely condemns the perpetrators.⁴ Nevertheless, it remains a common practice in the country, in violation of rules prescribed by the Code of Criminal Procedure for police custody and preventive detention. The last few years have been marked by a considerable number of arbitrary arrests carried out by agents of Military Intelligence or State Security. These arrests are made without the prior consent of the prosecution, without a judicial warrant and without informing the person arrested of the reasons for his arrest. The legal duration for detention under Article 32 of the Code of Criminal Procedure was originally set at 24 hours, renewable once by the prosecution. This period was increased by Law No. 359 of 16 August 2001 to 48 hours, renewable once. Legal guarantees are provided for under this procedure, such as a hearing for the accused in the presence of his counsel, and a medical examination by a doctor at the request of the accused or their relatives. However, this provision is not respected in practice by the various security services and particularly by the army's intelligence services. Indeed, in many cases documented by our organization, the legal length of custody has not been respected. In some cases the length of detention has been excessive, extending to several weeks and taking place in deplorable conditions.

It should be noted that the duration of detention under Article 108 of the Code of Criminal Procedure is also not respected in many situations. Moreover, this statutory provision that sets the duration of pre-trial detention to two months for civil matters and six months (renewable) for criminal matters does not provide a legal time limit for repeat offenders or certain offenses such as attacks against the security of the state. Thus, the four officers accused of the assassination of Rafik Al Hariri spent three years and eight months in custody before being released. The Working Group on Arbitrary Detention issued a Opinion officially labelling their detention arbitrary.⁵

Similarly, a large number of foreigners are detained after hasty and unfair trials on charges of unlawful entry into Lebanon and sentenced under Article 32 of the Law Regulating the Entry and Stay of Foreigners in Lebanon and their Exit from the Country. At the end of their sentences, many of them are not released; they are transferred to detention centres run by internal security forces.

Many other foreigners, including many Iraqis, who were arrested on the same charge are also being held without legal action.⁶

To date, more than a hundred Lebanese nationals are missing in Syrian prisons.⁷ Many of them were arrested in Lebanon during the civil war, by the Syrian army or militias that then handed them over to the Syrian army. Due to the existence of clear evidence of their presence in Syrian prisons during the 90s, including prison visits by some inmates' families, the Lebanese government has been forced to adopt a ministerial decree, dated 4 August 2008, by which it undertook to clarify the fate of those missing and ratify the International Convention for the Protection of All Persons against Enforced Disappearances. However, to date, the government has not taken effective measures to clarify the fate of those missing.

The Lebanese government had previously established in January 2000 a commission of inquiry composed entirely of officers of the security and intelligence services to conduct investigations into the disappearances but did not reach concrete results in this area. In July 2005, another Syrian-Lebanese committee was formed by members of the army and intelligence service that has yet disclosed any detailed information about missing so far.

In addition to those missing in Syrian prisons, there are reports of arrests of citizens by Lebanese authorities or by the various militias, but their fate has not been clarified to date as is the case with Joseph Sader, aged 57, kidnapped in Beirut on 12 February 2009. His family remains without news of his fate.

4. Torture and extrajudicial executions

Despite its ratification of the Convention against Torture in 2000 and the Optional Protocol to the Convention in December 2008, Lebanon still fails to meet the resulting commitments.

In this context, Alkarama published in a report in October 2009 entitled "Torture in Lebanon: Time to Break the Pattern".⁸ This report followed up on the events of Nahr al-Bared in 2007. The information gathered and the many cases documented by our organization and other NGOs show that the use of torture and other cruel inhuman practices remain common among Lebanese security services.

This systematic practice of torture is carried out by Military Intelligence and the Intelligence Section of the Directorate-General of the Internal Security Forces which was created in 1991 by Decree 1157 and comes under the authority of the Ministry of the Interior. Torture is common during the interrogation of persons suspected of belonging to armed groups or committing acts of violence and those accused of having links with Israel or terrorist groups.

On 7 October 2008, Alkarama as well as seven Lebanese and international human rights organizations sent a letter to the Lebanese Interior Minister, Mr. Ziad Baroud, to ask for investigations into all deaths of prisoners in custody, and all allegations of torture and ill treatment in prisons, places of custody and other detention centres in Lebanon. These NGOs revealed that at least 27 detainees died in prisons and in police custody since the beginning of 2007. They argue that these deaths may involve state and prison officials, as well as raising the issue of negligence in prisons and the lack or inadequacy of medical care for prisoners.⁹ Ismail Mohammed al-Khatib, 31, died while being held secretly at an unknown location in September 2004. To date, the circumstances of his death have not been established.¹⁰

On 24 April 2009, Alkarama sent a communication to the Special Rapporteur against Torture concerning the Hashash brothers, who were severely tortured and prosecuted solely on the basis of confessions extracted under torture. Amir and Mosbah Hashash were arrested on 16 November 2007 by plainclothes agents of the Intelligence Section of the Directorate-General of the Internal Security Forces. No arrest warrant was presented, and the brothers were not informed of the reasons for their arrest. They were held in secret for 3 months, during which they suffered severe torture.¹¹

5. The status of refugees and foreign workers

There are two main categories of refugees in Lebanon: Palestinian refugees, who flooded into the country since the Israeli occupation in 1947-1948, and those who came later – people from the

occupied Palestinian territories and other Arab countries - for example, Iraqis following the U.S. occupation.

The Palestinians are subjected to blatant discrimination and harsh economic conditions in their camps. Their situation has further deteriorated in the Tripoli region, north of the country, following the destruction of the of Nahr El Bared refugee camp in 2007. This left over thirty thousand people homeless. But there is another category of people, some forty thousand who are not officially recognized as Palestinian refugees under the criteria of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) because their families fled to Lebanon after 1948. These people currently live without any official identity document. Lebanon refuses to recognize the fundamental rights of all refugees in the country because it has still not ratified the 1951 Convention Relating to the Status of Refugees.

The number of foreign refugees in 2007 was estimated at 375,000 people: 270,800 Palestinians, 100,000 Iraqis, 4,500 Sudanese and a significant number of Syrians and Egyptians who work mainly in the construction and service industries. Lebanon forcibly expelled over 300 refugees in 2007. Article 32 of the Law Regulating the Entry and Stay of Foreigners in Lebanon and their Exit from the Country is invoked by the authorities to justify the arbitrary detention of many of these refugees. However, Lebanese courts which deal with illegal aliens are becoming increasingly reluctant to enforce tough sanctions; they do not always apply the additional sentence of forcibly returning illegal immigrants.¹²

The situation of an estimated 200,000 domestic workers, mostly women from Sri Lanka, the Philippines and Ethiopia, is also worrying. They sometimes have their passports confiscated (in violation of Article 12 of ICCPR), and their conditions of life and work are denounced by local human rights organisations. More worrying is the abnormally high death rate among this category of workers (one death per week on average and 8 cases in October 2009 according to HRW¹³). NGOs have raised this issue, but the authorities have so far failed to carry out thorough investigations.

Recommendations

- 1 - Introduce reforms in the judicial system to ensure fair trials, including the abolishment of the jurisdiction of military courts to try civilians, respect for the principle of the right to a review by a higher tribunal and the removal of executive interference in the judiciary.
- 2 - End the practice of incommunicado detention at military and intelligence service premises within the Directorate General of the Internal Security Forces.
- 3 - Ensure that conditions of detention in prisons are up to standards established by the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment adopted by General Assembly resolution 43/173 of 9 December 1988.
- 4 - Stop torture and inhuman and degrading treatment, open prompt and impartial investigations into allegations of torture and all cases of deaths in custody, prosecute and convict those responsible for these acts and compensate victims and/or their families; strictly prohibit the use of confessions extracted through torture before the courts.
- 5 - Implement a system of independent control over all places of detention as required by the Optional Protocol to the Convention against Torture, ratified by the country.
- 6 - Take all necessary measures to clarify the fate of missing persons in Syria and Lebanon.
- 7 - Take all necessary measures to improve the situation of Palestinian refugees and normalise the status of those are not legally considered refugees.

On the normative level:

- 8 - Integrate a definition of the crime of torture into domestic law, as defined by Article 1 of the Convention and impose appropriate penalties to punish offenders.
- 9 - Ratify the International Convention for the Protection of All Persons against Enforced Disappearance and the 1951 Convention relating to the Status of Refugees.

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- ¹ This agreement reinforces and legitimises the presence of Syrian troops in Lebanon.
 - ² It was adopted on 2 September 2004 by the UN Security Council at its 5028th session (S/RES/1559).
 - ³ Alkarama press release, *Lebanon: Torture, ill-treatment and prosecution of civilians before military courts, 17 October 2008*, http://en.alkarama.org/index.php?option=com_content&view=article&id=153:lebanon-torture-ill-treatment-and-prosecution-of-civilians-before-military-courts-&catid=26:communiqu&Itemid=132 (accessed on 15 April 2010)
 - ⁴ See also article 48 of the 2001 Code of Criminal Procedure and article 367 of the Lebanese Criminal Code.
 - ⁵ See Working Group on Arbitrary Detention, Opinion No. 37/2007(Lebanon), adopted 30 November 2007.
 - ⁶ See the legal study carried out by the Frontiers Ruwad Association, *Double Jeopardy: Illegal Entry - Illegal Detention (case study: Iraqi Refugees and Asylum-Seekers in Lebanon*, Beirut, December 2008, p. 40.
 - ⁷ The list of disappeared is available on the website of the NGO Former Lebanese Political Detainees in Syria, <http://www.flpdinsyria.com/?q=node/2> (accessed on 13 April 2010)
 - ⁸ Alkarama report, *Torture in Lebanon: Time to Break the Pattern*, October 2009, http://en.alkarama.org/index.php?option=com_docman&task=doc_download&gid=139&Itemid=134 (accessed on 13 April 2010)
 - ⁹ Alkarama press release, *Lebanon: Letter of Alkarama and other NGOs to the Minister of the Interior about the situation in prisons*, 8 October 2008, http://en.alkarama.org/index.php?option=com_content&view=article&id=148:lebanon-letter-of-alkarama-and-other-ngos-to-the-minister-of-the-interior-about-the-situation-in-pr&catid=26:communiqu&Itemid=132 (accessed 15 April 2010)
 - ¹⁰ Amnesty International, *Lebanon: Amnesty International demands independent investigation into death in custody and end to incommunicado detention*, 30 September 2004, <http://www.amnesty.org/en/library/asset/MDE18/011/2004/en/e4c68873-d57c-11dd-bb24-1fb85fe8fa05/mde180112004en.html> (accessed on 15 April 2010)
 - ¹¹ Alkarama press release, *Lebanon: Secret detention and torture for Hashash brothers*, 27 April 2009, http://en.alkarama.org/index.php?option=com_content&view=article&id=226:lebanon-secret-detention-and-torture-for-hashash-brothers&catid=26:communiqu&Itemid=132 (accessed on 15 April 2010)
 - ¹² For more details, see Frontiers Ruwad Association's legal study, *Double Jeopardy: Illegal Entry - Illegal Detention (case study: Iraqi Refugees and Asylum-Seekers in Lebanon*, Beirut, December 2008.
 - ¹³ Human Rights Watch, *Lebanon: Deadly Month for Domestic Workers*, 9 November 2009, <http://www.hrw.org/en/news/2009/11/09/lebanon-deadly-month-domestic-workers> (accessed on 15 April 2010)