



Lebanese Center for Human Rights (CLDH)

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Submission to the United Nations Universal Periodic Review of LEBANON

The Lebanese Center for Human Rights (CLDH) is a local non-profit, non partisan Lebanese human rights organization, that was established by the Franco-Lebanese movement SOLIDA (Support for Lebanese Detained arbitrarily) in 2006. SOLIDA has been active since 1996 in the struggle against arbitrary detention, enforced disappearance and the impunity of those perpetrating gross human rights violations. CLDH monitors the Human Rights situation in Lebanon, fights enforced disappearance, impunity, racism, arbitrary detention and rehabilitates the victims of torture.

In order to better understand the human rights situation in Lebanon, it is important to recognize that Lebanon possesses a general comprehensive legal framework, and has ratified the main human rights conventions, therefore applicable in Lebanon¹. However, de facto, there is still a gap between international and domestic legislation, and the law is often inconsistently implemented and enforced. Moreover, Lebanon fails to report to the UNHRC, and did not ratify the Optional Protocol to the International Covenant on Civil and Political rights (ICCPR), and made reservations to article 22 of the Convention against torture (CAT), both allowing for individual complaints.

DETENTION

Detention places - There are in Lebanon **21 prisons** which fall under the Internal Security Forces control. CLDH conducted in 2009 an evaluation of the material conditions of the prisons, revealing the general poor conditions in terms of cleanliness, installation and equipment of these prisons, which do not meet minimum international standards.² Poor conditions are mainly related to overcrowding. The one **retention center** in Lebanon falls under the authority of the General Security (in charge of immigration issues). This retention center is an underground parking, located under a bridge, which was converted into a detention place since December 14th, 2000. In March 2009, 590 persons were incarcerated in this retention center, locked in 13 underground cages of 40m² without any natural light, nor outside yards. Both men and women are detained in this detention place, and male guards are in charge of women detained. Access to this retention center is limited.

¹ By virtue of the combined application of the preamble of the Lebanese Constitution and article 2 of the civil procedure code, which recognizes the supremacy of international treaties' provisions, international treaties ratified by Lebanon are applicable.

² CLDH Report, [Prisons in Lebanon : humanitarian and legal concerns](#), 2009

Moreover, several prisons are ruled by intelligence services and are used as “private” prisons, where inmates remain under the authority of the same services that arrested and investigated them, under a limited or nonexistent supervision of the judiciary. The detention center of the **Ministry of National Defense**, located in the basement of the Ministry, has been legalized as an official prison.³ Used both as an investigation place and as an official prison, this prison is entitled to holding persons who are unconvicted, convicted, minors, adults, men or women. This prison falls under the exclusive control of the military intelligence services and their armed branch Mukefaha, and is deprived of any effective external control⁴. A building inside the central prison of Roumieh, “**Maalumet building**”, is also used as an incarceration place, and falls under the exclusive control of the ISF intelligence, but is not registered as an independent prison.

Arbitrary detention - Lebanese prisons suffer from severe overcrowding⁵, which finds its roots in the high percentage of persons arbitrarily detained. Inmates in pretrial detention represent two thirds of the prison population of Lebanon, raising the issue of the excessive length of pretrial detention, due in some cases to simple bureaucratic inefficiency. Large numbers of convicted were sentenced during trials that do not meet international standards. Moreover, 13% of the inmates remain detained beyond the end of their sentence⁶, with no legal basis. CLDH documents many cases of victims of arbitrary detention, and submits them to the United Nations Working Group on Arbitrary Detention, which has deliberated over the years on several cases and, without exception, concluded they were arbitrary detention⁷. CLDH wishes to draw attention to the serious situation as regards the detention of foreigners⁸ in Lebanon, which constitute a particularly vulnerable section of the prison population, in particular, to emphasize the following:

- Foreigners detained beyond their sentence. According to an internal circular, any foreigner incarcerated in Lebanon must be transferred to the General Security at the end of his/her sentence in order to regularize his/her situation or organize their deportation. 13% of the prison population in Lebanon consists of foreigners who have completed their sentences and are waiting to be handed over to the General Security, and are therefore arbitrarily detained, with regard to domestic law, and article 9.1 of the ICCPR
- Detention of asylum seekers and refugees. Asylum seekers and refugees are detained, without any legal basis, unable to be released in Lebanon refusing to give them any legal status, unable to return to their country of origin, and often prevented from applying for

³ Decree n°6236, January 17th, 1995.

⁴ No NGOs is granted access to the detention center; the ICRC, as the only/unique entity allowed to visit the Ministry of Defense’s underground prison, was denied access until 2007.

⁵ In 2009, the official capacity of the Lebanese prisons was of 3653 inmates, whereas the total number of inmates was of 5324, that is to say almost 1.5 times over the official capacity.

⁶ CLDH Report, [Prisons in Lebanon : Humanitarian and Legal concerns](#), 2010

⁷ WGAD Opinions 12/2009, 17/2008, 37/2007, 10/2007; Report of the Working Group on Arbitrary Detention, A/HRC/10/21, February 16th, 2009.

⁸ 18% of the Lebanese prison population – 2009, CLDH Report, [Prisons in Lebanon : Humanitarian and Legal concerns](#), 2009

resettlement in a third country. In some cases, statutory refugees are kept in detention indefinitely in order to force them to sign their deportation to their countries of origin, in violation with the Lebanese law⁹, and Lebanon's international commitments¹⁰. CLDH witnessed in March 2010 an attempt to forcibly deport to Iraq an Iraqi refugee, who was awaiting an interview for resettlement in a third country after 31 months of arbitrary detention in Lebanon¹¹.

TORTURE & CRUEL, INHUMAN, DEGRADING TREATMENT OR PUNISHMENT

Inadequacy of the domestic legislation on torture with international relevant standards

Lebanon has ratified the United Nations Convention against torture (CAT) and other cruel, inhuman or degrading treatment or punishment (1984) in 2000, but has yet to comply with its provisions, regarding the investigations and prosecution of torture perpetrators. Moreover, Lebanon didn't adhere to Article 22 of the CAT which allows individuals to directly submit complaints to the UN Committee against torture. In connection with the implementation of the Optional Protocol to the Convention against Torture, ratified by Lebanon in 2008, the Lebanese authorities are currently looking into establishing a national torture prevention mechanism. Despite Lebanon having ratified relevant international treaties, Lebanese domestic laws fail to prohibit torture; indeed, the definition of torture given in article 401 of the Lebanese Criminal Code doesn't apply to non physical forms of torture, such as mental or psychological torture.

Allegations of torture – Torture is still allegedly routinely practiced in Lebanon, and denounced by human rights organizations, as well as the United Nations Special Rapporteur on torture. Waves of arrests among the persons accused of having planned an attack against Hezbollah leader Hassan Nasrallah in 2006¹², then among the alleged Islamist activists in Tripoli¹³, then among the alleged supporters of Fatah al Islam in 2007, and among the alleged spies of the Israeli state have represented periods during which dozens or even hundreds of persons were interrogated, detained, and often tortured in the Ministry of National Defense prison¹⁴. Confessions are still considered the highest form of evidence and judges have difficulty still today rejecting confessions signed by the defendants under torture in order to base their conviction on evidence and facts. Persons who denounce these facts are exposed to security and judiciary reprisals¹⁵. CLDH documented several cases of people who have allegedly suffered

⁹ Including article 8 of the Lebanese Constitution which guarantees individual freedom and protects against arbitrary detention, and article 406 of the Lebanese Code of Criminal Procedure which requires the release of all condemned the day their sentence expires.

¹⁰ Including article 9 of the Universal declaration of Human Rights, article 9.1 of the ICCPR, article 3 of the CAT.

¹¹ CLDH Press Release, [Attempt to forcibly deport a refugee](#), March 8th, 2010

¹² Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak, A/HRC/7/3/Add.1, 19 February 2008, paragraphe 131.

¹³ *Ibid*, paragraphe 132.

¹⁴ Report SOLIDA, *Lebanon, The Ministry of Defense Detention Center: a major obstacle to the prevention of torture. Forgotten victims, unpunished executioners*, October 2006. See US department of State, [Human Rights Report 2009 - Lebanon](#)

¹⁵ On November 2, 2009, the press court sentenced Adonis Akra for undermining the army and justice reputations through the publication of his book in which were described his conditions of detention in the Ministry of National Defense in august 2001.

several forms of torture, including beatings, electric shocks, balanco, deprivation of sleep, humiliation, standing up for long periods, bodies covered with sand until skin irritated, blindfolded for months, fallaqqa, and more, and submitted several cases to the Special Rapporteur on torture¹⁶. The unlimited detention, in very bad conditions, of asylum seekers and refugees in order to force them to sign their deportation to their country of origin also should be considered as a form of psychological ill-treatment, if not of torture¹⁷.

ENFORCED DISAPPEARANCE

In Lebanon, there are thousands¹⁸ of missing persons as a result of the practice of “enforced disappearance” used by the Lebanese and Palestinian militias and the Syrian and Israeli armies during the civil war. Most of these “missing persons” have most likely been executed during the civil war and buried in mass graves in Lebanon but hundreds of Lebanese citizens who are missing would still be incarcerated at present in Syrian prisons. Some families whose loved ones were kidnapped at the hands of the Israeli army are still awaiting answers concerning their relatives. Since the end of the war and the withdrawal of both foreign armies, the authorities have yet to take serious steps to uncover the fate of these thousands of people. The complete lack of political will to deal with the gravity of the situation is attested by the fact that no official census of the missing has been made to this date. In fact, the Government has only taken measures aimed at closing the issue of the missing versus tackling the problem and finding a solution. Several commissions were created with the mandate of shedding light on the fate of the victims of enforced disappearance but none have led to any concrete results and they seem to act more like mock commissions; the first was established in 2000, then in 2001 and the more recent is the joint Lebanese-Syrian Commission established in 2005 and whose mandate was extended to December 2010. However, not one of these inquiry commissions to uncover the fate of missing persons has led to any serious results. In fact, an analysis of the way they were composed, their mandate and the way in which they carried out their investigations sheds serious doubts on their true motives and whether their stated objective was applied at all. The families do not benefit from tangible efficient legal recourse at the national or at the international level; Lebanon signed the Convention for the Protection of all Persons from Enforced Disappearance on February 6th, 2007, but has not ratified it yet. Furthermore, the authorities have not taken measures to uphold the right of victims to reparations.

¹⁶ See Mahmoud Rafah, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak, A/HRC/7/3/Add.1, 19 February 2008, paragraphe 133 and A/HRC/10/44/Add.4, 17 February 2009, paragraphe 139.

¹⁷ CLDH Report, *Prisons in Lebanon : Humanitarian and Legal concerns*, 2010

¹⁸ The official estimation is 17,415 although the precise number is not known due to the lack of any official census.

INDEPENDENCE AND IMPARTIALITY OF THE JUDICIARY

Two special courts in Lebanon directly violate fundamental freedoms and human rights: the military tribunals, and the Justice Council. The composition, functioning and jurisdiction of these courts violate the provisions of the Universal Declaration of Human Rights, and the International Covenant on Civil and Political Rights – both included in the Lebanese Constitution. Military courts and the Council of justice, special jurisdictions deprived of independence vis-à-vis the military apparatus for the military courts, and the political authorities for the Justice Council. Under article 366 of the Code of Criminal Procedure, as amended in 2005, decisions of the Justice Council cannot be appealed by a higher jurisdiction, and trials can only be revised before the Justice Council itself. The Human Rights Committee noted in its recommendations to the Lebanese government in 1997 the non conformity of these practices with the provisions of the Covenant.¹⁹

RECOMMENDATIONS

In views of these elements, the Lebanese government and all relevant governmental, legislative or judicial authorities should:

- Order thorough and impartial investigations into human rights violations in order to identify all those responsible, bring them to trial and apply the penal and/or administrative sanctions as provided by law
- Review all unfair trials
- Close down the Ministry of Defense prisons, and the General Security retention center
- Amend the 1962 law on the entry and stay of foreigners in Lebanon, to exempt any applicant for asylum from the offense of illegal entry into Lebanon
- Submit the Lebanese overdue periodic reports to the CAT committee
- Include CAT provisions in the domestic law
- Adhere to article 22 of the CAT, and ratify the Optional Protocol 1 of the ICCPR
- Establish the national preventive mechanism in the shortest time, according to the OPCAT
- Cancel article 363 of the Criminal Procedure Code, in accordance with article 14 of the ICCPR, and establish an appeal mechanism by a superior jurisdiction of the Council of Justice's decisions
- Limit the military courts prerogatives
- Officially recognize the scope of the issue of enforced disappearance and implement a mechanism of accounting and identification of the “disappeared”.
- Create a DNA database for all the families of the “disappeared” and exhume all mass graves in Lebanon, and this according to internationally-approved protocols for exhumations.
- Ratify the Convention for the Protection of all Persons from Enforced Disappearance.
- Set up a national commission on the missing as stated in articles 15 and 16 of the Ministerial Statement of the newly established national unity government.

¹⁹ Euro-Mediterranean Human Rights Network, [Independency and impartiality of the judiciary](#), 2010