



## Universal Periodic Review: Lebanon

# Continuous Deterioration of Human Rights in Lebanon

1. The present contribution falls within the framework of the third cycle of the Universal Periodic Review (UPR) pertaining to the general human rights situation in Lebanon and takes into account the recommendations made in November 2015.

### 1. Background and framework

2. In 2015, protests known as "You Stink"<sup>1</sup> started after a waste crisis and against the deteriorating conditions in Lebanon. Throughout the previous years, Lebanon has faced many problematic issues as the power cuts, the increase of public debt, Israeli military operations against Lebanon in July 2006 and the assassination of former Prime Minister Rafik Hariri in 2005.

3. In 2016, the Lebanese army launched a battle against radical armed groups in Aرسال outskirts eastern Lebanon. It started with a clash that broke out in March between a military patrol from Lebanese Army and members of the Islamic State (ISIS). It resulted in killing of two soldiers from the Lebanese army and there were massive arbitrary arrests against Syrian refugees and Lebanese in Aرسال.

4. In January 2017, Transparency International's 2017 Corruption Perceptions Index<sup>2</sup> ranked Lebanon in 136th place among 176 countries. In same year, Prime Minister Saad Hariri announced his sudden resignation while he was in Saudi Arabia. All these crises had its impacts in press and media, which led to the closure of a large number of written and visual media outlets.

5. Parliamentary elections were held on 6 May 2018, although disputes continued afterward between political parties.

<sup>1</sup> [https://en.wikipedia.org/wiki/2015%E2%80%93Lebanese\\_protests](https://en.wikipedia.org/wiki/2015%E2%80%93Lebanese_protests)

<sup>2</sup> <https://www.alaraby.co.uk/english/indepth/2017/1/27/corruption-falling-in-lebanon-global-index-indicates>

6. Finally and since the last universal periodic review, consequences of the Syrian conflict have emerged with the support of some Lebanese political parties in the conflict. In addition, to the international financial sanctions which led to economic and social demands turned into outbreak of the October 2019 revolution.

### **1.1 Scope of international obligations**

7. Lebanon is a party to the main international human rights instruments, including the International Covenant on Civil and Political Rights (ICCPR), the Convention against Torture (CAT) and its Optional Protocol (OPCAT).

8. In previous review, some states gave recommendations<sup>3</sup> to Lebanon for ratifying the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED). Lebanon signed the Convention on 6 February 2007, but has not ratify it until the date of submitting this report. Lebanon has not accepted individual complaints procedures under Optional Protocol of the International Covenant on Civil and Political Rights and article 22 of the Convention against Torture.

9. In spite of the existence of official bodies to investigate the fate of missing persons in Syria and Israel but the authorities have not undertake this issue seriously. In addition, the Lebanese authorities in the last years have carried out some arrests which turned into enforced disappearance before referring those to the competent judiciary.

10. The Lebanese lawmaker adopted Law No. 105 on November 30 2018, which states of establishing the “National Commission for Missing and Enforced Disappeared Persons”. At the time of writing this report, no regulatory decrees have been issued regarding the appointment of members of this body. In the state’s budget of 2020, there has not been allocated a budget for this body to carry out its work and therefore it is practically and virtually non-existent.

### **11. Recommendations:**

- a) Ratify the International Convention for the Protection of All Persons from Enforced Disappearance.
- b) Implement Law No. 105 of 30 November 2018 and immediately activate the work of the commission.
- c) Accept the individual complaints procedures of the above mentioned conventions.

### **1.2 Constitutional and legislative framework**

12. Lebanon accepted recommendations<sup>4</sup> related to establishment of an independent national human rights institution. On 27 October 2017 Lebanon was able to pass Law No. 62 on 27 October 2016 which establishes the National Human Rights Commission (NHRC) which includes the Committee for the Prevention of Torture (CPT). However, this body has not been yet able to carry out its work due to non existence of a budget and failure to issue decrees required to start its mandate.

### **13. Recommendation:**

- a) Issue the necessary decrees to allocate a budget to NHRC and activate its mandate.

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<sup>3</sup> Recommendations n. 132.15 (Uruguay, Argentina and Sierra Leone), n.132.16 (France), and n. 132.110 (Cyprus) .

<sup>4</sup> Recommendations n.132.42 (Sierra Leone), n.132.43 (Hungary) and n.132.44 (Namibia).

## **2. Torture and ill-treatment**

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14. In the previous review, Lebanon accepted<sup>5</sup> to amend its legislation in line with the CAT, but it has not fulfilled this obligation.

15. Lebanon adopted Law No. 65/2017, which defined torture and criminalized it. It was not sufficient and inconsistent with the CAT in terms of definition, statute of limitations and the victim's compensation. Due to those gaps and others<sup>6</sup>, it has not been implemented till now<sup>7</sup>. The Prison Committee in Tripoli Bar Association in Tripoli has monitored more than 40 cases of torture, but there has not been any perpetrator held accountable. And notably, the case of Hassan Toufic Dika<sup>8</sup> who was tortured and died later due to medical issues. The case of Mr Dika according to the new anti torture law is pending till moment of writing this report. Recently, the Parliamentary Committee of Administration and Justice submitted a law proposal but it's still pending.

16. The Prison Committee in Tripoli Bar Association in cooperation with human rights organizations organized a press conference<sup>9</sup> on 26 June 2019 in which it outlined recommendations for the Lebanese authorities to implement the CAT and apply the new anti torture law. And in the context of 17 October protests, group of lawyers held a press conference<sup>10</sup> on 06 February 2020 which they raised more than 17 cases of torture. The lawyers filed complaints according to the new law but to no avail.

17. In one<sup>11</sup> of the accepted recommendations, Lebanon should ensure that the security forces, including the military, are governed during peaceful demonstrations by the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. Lebanon authorities have violated this recommendation in the peaceful protests that Lebanon has witnessed since 17 October 2019 and in 2015. The security authorities used excessive force with the protestors including beating them severely and using rubber bullets. The rubber bullets were used from close distance and some protestors were injured from the upper part of the body; which led to the death of some of them and the loss of others' eyes.

18. Lebanon noted recommendation<sup>12</sup> during the previous review related to non-refoulement. Lebanon violated article 3 of the CAT when handed over to Iraq an Iraqi refugee<sup>13</sup> in May 2017. And in October 2019, Lebanon handed over Syrian refugee Hadi Diao Al Zahouri<sup>14</sup> to Syria who served his sentence in Lebanon and other Syrian refugees<sup>15</sup> in 2019. The new anti torture Law no. 65/2017 did not criminalize those who violate article 3 of the CAT.

### **19. Recommendations:**

- a) Apply Law No. 65/2017 to end impunity.

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<sup>5</sup> Recommendations n.132.34 (Belgium), n.132.35 (Turkey), n.132.36 ( Hungary), n.132.111 (Switzerland), n.132.117 (Luxembourg), n.132.118 (Germany), and n.132.119 (Austria).

<sup>6</sup> <https://www.alkarama.org/en/articles/lebanon-new-anti-torture-law-missed-opportunity-fails-meet-standards-un-convention-against>

<sup>7</sup> <https://www.amnesty.org/en/latest/news/2019/06/lebanon-is-failing-torture-survivors-by-delaying-implementation-of-crucial-reforms/>

<sup>8</sup> <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24311>

<sup>9</sup> <https://www.nl-bar.org/Article?NID=7616#.XnP9raNx3Mw>

<sup>10</sup> <https://www.legal-agenda.com/article.php?id=6454>

<sup>11</sup> Recommendation n.132.99 (Costa Rica)

<sup>12</sup> Recommendation n.132.206 (Argentina)

<sup>13</sup> <https://www.alkarama.org/en/articles/lebanon-iraqi-refugee-extradited-his-home-country-despite-risk-torture-and-death-0>

<sup>14</sup> <https://bit.ly/2Iqjb2z>

<sup>15</sup> <https://www.achrights.org/ar/2019/08/07/9822>

- b) Amend the legislation to bring it in conformity with the CAT and in particular: define and criminalise all acts of torture, ensure that all allegations of torture are investigated, punish those responsible of torture, guarantee victims to the right to an effective remedy and criminalize the non-refoulement.
- c) Define the act of "cruel, inhuman or degrading treatment or punishment" in the Lebanese legislation and criminalize it without prior permission.
- d) Ensure that the security forces, including the military, are governed during demonstrations by the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

### **3. Detention, prisons and trials**

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#### **3.1 Prisons overcrowding**

20. Lebanon accepted recommendation<sup>16</sup> for taking all measures necessary to accelerate its criminal justice procedure and improving the conditions of its prisons and detentions centres. On December 22, 2019, the Bar Associations in Tripoli and Beirut carried out visits to prisons in Lebanon with the accompaniment of the Internal Security Forces who are controlling the prisons. The observations were as following:

- Massive overcrowding in prisons, for instance the juvenile building in Roumieh prison holds 1046 prisoners while its capacity should be 300 which violate the UN Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules).
- A major weakness in providing health care and services. There is insufficient number of doctors and psychologists, as well as an acute shortage of medicine; which led to the death of some as a result of delay in providing medical care for them.
- The prisons are not conducive to personal and public health, with a complete absence of hygiene standards and constant complaints about contamination of drinking water and toilets that are not suitable for humans.
- Many of prisoners are not allowed to be in one hour in the open air; which contradicts Rule No. 23 of the Nelson Mandela Rules.
- There is no separation of prisoners where are in different age - mixing of juveniles with adults- or the crime committed; i.e. the perpetrators of financial crimes with the perpetrators of criminal crimes. And as well there is no separation between prisoners without trials and sentenced prisoners.
- Lack of any social or educational rehabilitation for prisoners.
- Difficulty for conducting visits whether for lawyers or families.
- Lawyers from Tripoli and Beirut Bar Associations, local and international NGOs are not allowed to enter any of the prisons and detention centres that are under the Army Command, for example the Ministry of Defense Prison, Rihaniyya prisons in the Mount Lebanon and Ramlet Al-Bayda prison in Beirut.
- The use of solitary confinement indefinitely as a punishment in some of cases which violates of rule No. 43 of Nelson Mandela Rules. For example, this has happened in Al-Rihaniyah prison with some prisoners.

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<sup>16</sup> Recommendation n.132.122 (Japan).

21. In its response to the concluding observations of the Human Rights Council, Lebanon had affirmed its intention to build new prisons. The construction of new prisons is proceeding very slowly and contrary to international conventions. After all these years, only one building was finished, namely, the high security building in Roumieh prison. The prisoners in this building are not exposed to sunlight due to the lack of an uncovered yard. Some of them were beaten, tortured and their rights been violated due for accusations in serious crimes. The Prisons Committee of the Tripoli Bar Association issued a statement<sup>17</sup> regarding this and urged the Minister of Interior to intervene.

**22. Recommendations:**

- a) Provide adequate health care in prisons under the supervision of the Ministry of Health, rather the Internal Security Forces, and allocate a budget for it.
- b) Implement Decree No. 17315/1964; thus transfer the prison administration from the Ministry of Interior to the Ministry of Justice.
- c) Apply the United Nations Standard Minimum Rules for the Treatment of Prisoners.
- d) Replace the detention in some cases with financial guarantees to alleviate the issue of overcrowding.
- e) Allow local and international NGOs and lawyers to access all detention centers and prisons of all security and military forces.

**3.2 Unfair trials**

23. One<sup>18</sup> of the recommendations of the previous review was on the competence of the military court and the need to limit it to the members of the armed forces only. Lebanon's officials have not responded to date to amend it although there were two draft laws in the previous years; one by a former Minister of Justice Shakib Kartbawi in September 2015 and another one was by the former Minister of Justice Ashraf Rifi in January 2016. None of these two draft laws was discussed seriously due to the clashes between the political parties. Tripoli Bar Association documented some cases of arbitrary detention and unfair trials and submitted those to the Special Procedures in UN. In one<sup>19</sup> of those cases, the Special Procedures sent a joint letter to the Lebanese delegation in Geneva.

**24. Recommendation:**

- a) Amend the law to limit the Military Tribunal's jurisdiction to members of the armed forces;
- b) Respect the fair trial guarantees and release those arbitrarily detained.

**3.3 Pre-trial detention period**

25. One<sup>20</sup> of the recommendations of the previous review, which Lebanon noted was to put an end to pre-trial detention for indefinite periods and to release all detained persons without formal charges and without trial. Article 108 of the criminal procedure law that put an end to pre-trial detention in misdemeanours and felonies excluding those who are sentenced in crimes related to murder, drugs, attack against state security, grave danger, terrorism and the case of a detainee previously convicted of a prison sentence. Article 108 has not been active and far from application in the Lebanese courts; which led to the

<sup>17</sup> <https://nl-bar.org/Article?NID=5450#.XnT7z6Nx3Mw>

<sup>18</sup> Recommendation n. 132.149 (Hungary)

<sup>19</sup> <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=23391>

<sup>20</sup> Recommendation n. 132.123 (Switzerland)

injustice of many of detainees. For example, cases of Fatah al-Islam<sup>21</sup> who are about 500 defendants were detained for more than 13 years. Their trials had been delayed for several years and 45 defendants were sentenced innocent in the end. Their families had suffered economically in the absence of an end to the pre-trial detention and the length of the trials.

26. MP Samir Al Jisr as a member, in the former Lebanese Parliamentary Defense Committee, had held the judges responsible for the arbitrary arrest of abovementioned cases. The aforementioned committee submitted a recommendation to the Ministry of Justice to request the Public Prosecution and investigative judges to implement the provisions of articles 107 and 108 of the Criminal Procedure Law in text and spirit. The former Chairman of the Administration and Justice Committee, MP Robert Fadel, pointed to the failure of some judges to perform their duties despite the numerous reviews carried out by the Minister of Justice for those cases. In 2011, 10 MPs submitted a draft law to amend the article 108 to put an end to the pre-trial detention of all crimes, but unfortunately the draft law has not been discussed seriously in the Parliament Council. In March 2020 and in the context of COVID-19, Tripoli Bar Association held a press conference<sup>22</sup> and raised the issue of pre-trial detention and urged the Lebanese authorities to implement article 108 on cases of detainees that are not excluded in the above article.

27. **Recommendations:**

- a) Amend article 108 of the Criminal Procedure law to put an end the use of indefinite pre-trial detention for all crimes without exception;
- b) Implement immediately articles 107 and 108 of the Criminal Procedure law to resolve the issue of overcrowding for the crimes that are not excluded.

#### **4. Deprivation of Lebanese women to pass on her nationality**

28. Lebanon ratified CEDAW on 24 July 1996 but has placed reservations on some of its articles; including the second paragraph of article 9. The latest grants equal rights for women with men to pass on their nationality to their children. Lebanon justified this by the fact that the Lebanese people are not subjected, in their personal status, to a united law. In fact, this reservation was due to purely political-demographic reasons.

29. Accordingly, the Lebanese Nationality Law No. 15 issued in 1925 deprives the Lebanese mother who is married to a foreigner of her right to pass on nationality to her husband and children. Even though the law grants the same right, in its article 4, to foreign women married to a Lebanese man and to every child born in Lebanese territory from unknown parents or from parents of unknown nationality.

30. This violates the Lebanese constitution, especially article 7, as well as paragraph C of its introduction, which affirms that Lebanon respects the principle of equal rights and duties among all citizens without discrimination or preference. Human rights organizations and legal institutions have made a continuous effort to lobby on the Lebanese authorities to amend the Lebanese Nationality Law. National Commission for Lebanese Women (NCLW) and other NGOs have submitted proposals to amend this law. However, none of these laws was discussed and the situation remained as it is until the date of writing this report. In the previous UPR review, Lebanon noted two recommendations<sup>23</sup> on this regard.

<sup>21</sup> [https://en.wikipedia.org/wiki/Fatah\\_al-Islam](https://en.wikipedia.org/wiki/Fatah_al-Islam)

<sup>22</sup> <https://nl-bar.org/Article?NID=9149#.XnTioqNx3Mw>

<sup>23</sup> Recommendation n.132.155 (Denmark) and 132.156 (France)

31. It is important here to note there were some attempts from some Lebanese Judges on this issue. We refer here to the ruling of the Court of First Instance in Mount Lebanon, headed by Judge John Azzi, who issued a decision in 2009. The decision granted a Lebanese woman widow from her Egyptian husband, the right to pass on her nationality to her minor children. However, this ruling was not implemented because the Public Prosecution appealed it.
32. **Recommendations:**
- a) Withdrew reservation on paragraph 2 of article 9 of CEDAW.
  - b) Amend Law no. 15/1925 in accordance with paragraph 2 of article 9 of CEDAW.