

Lebanon

CCPR
Centre for Civil and Political Rights

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I. Introduction

a. Joining organisations

This joint report is prepared by ALEF – act for human rights, Association for Justice and Mercy (AJEM), Caritas Lebanon, Himaya, Insan Association, The Lebanese Coalition for the abolition of the death penalty, MOSAIC, Proud Lebanon, Restart Center, Skoun, Together against the death penalty, and the World Coalition Against the Death Penalty. We hereby submit this report evaluating the implementation of the International Covenant on Civil and Political Rights (ICCPR) in Lebanon. This report aims to highlight the main concerns of civil societies in Lebanon based off the State's submission, while addressing recommendations to the State Party.

b. Methodology

This report is based on extensive desk research and past reports by various NGOs mentioned above. Contributors from Lebanese NGOs and CCPR met for a two-day national civil society consultation in Lebanon, where NGOs were introduced to the reporting process, and were subsequently able to participate actively in the drafting of this report based on their fields of expertise. This report is the final result. While the joining organizations made all efforts possible to cross- check information and reproduce only accurate facts and events, this does not overrule the possibility of inaccuracies or oversights, for which we express hereby our regrets.

c. Contact details

The joining organizations are pleased to express their gratitude to all those who contributed, directly or indirectly, to the production of this report, including



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II. Replies of Civil Society to the List of Issues (CCPR/C/LBN/Q/3)

a. Constitutional and legal framework within which the Covenant is implemented (art. 2)

Issue 1: *Please clarify the status of the Covenant within the domestic legal order, in particular whether the Covenant prevails over domestic laws, including the Constitution, in case of conflicting or contradicting provisions, and provide information on cases in which domestic courts have referred to the provisions of the Covenant and on how such potential conflicts have been resolved.*

Comments from Civil Society

Since Lebanon ratified the International Covenant on Civil and Political Rights on November 3, 1972, the Covenant has constituted an integral part of the Lebanese legal system. Pursuant to article 2 of the Code of Civil Procedure, the Covenant has primacy over the provisions of ordinary law but not over the Constitution.¹ The Lebanese Constitution states, “[Lebanon is] a founding and active member of the United Nations Organization and abides by its covenants and by the Universal Declaration of Human Rights. The Government shall embody these principles in all fields and areas without exception.” However, this does not always happen.

Lebanese law guarantees some of the rights enshrined in the ICCPR. However, there is room for improvement. The Constitution of Lebanon does not guarantee the right to life, but guarantee equality before the law² the basic principles of fair trial are present in the Lebanese justice system, such as the unconditional right to resort to a lawsuit, the right to legal counsel, the burden of the proof falling upon the accused, and the right to avoid prosecution for the same crime twice.

Recommendations:

The State Party should:

- Ensure the prevalence of the Covenant over domestic law
- Ensure implementation of the provisions of the Covenant into domestic law
- Revise local legislation to ensure conformity with Lebanon's international human rights obligations
- Effectuate national mechanisms such as the NHRI/NPM
- Ensure the independence and ability of such bodies to monitor the state's practices with regard to human rights

Issue 2: *With reference to the information presented in the State party's report (see CCPR/C/LBN/3, para. 37), please report on any measures aimed at a transition from the current political confessionalism system.*

Comments from Civil Society

So long as constitutional privilege is ensured by the government for Lebanese citizens, the confessionalism system in no way obstructs the fulfilment of the state's human rights obligations.

Recommendations:

The State Party should:

- Ensure fair representation and inclusive politics in line with Lebanon's international human rights obligations
- Insure that religious affiliation do not lead to limitation to the enjoyment of basic human rights;
- Promote equality among citizens in a myriad of rights beyond their religious affiliations

b. Non-discrimination and equality between men and women (arts. 2, 3 and 26)

Issue 3: Please indicate whether steps have been taken or are being taken to adopt comprehensive anti-discrimination legislation that, inter alia, addresses discrimination in the private sphere; prohibits all direct and indirect discrimination and multiple forms of discrimination; contains a comprehensive list of prohibited grounds for discrimination, including sex, language, political or other opinion, property, birth, sexual orientation, gender identity and other status; and provides for effective remedies in judicial and administrative proceedings.

Comments from Civil Society

Article 7 of the Lebanese Constitution stipulates, “All Lebanese shall be equal before the law.” Lebanese legislation guarantees non-discrimination on the basis of colour, religion and national or social origin. However, nationals and foreigners continue to be subjected to discrimination and racism by Lebanese institutions.

There is no legislation that protects those residing in Lebanon from discrimination, nor are there set judicial procedures to deal with such incidents in a manner that is sensitive to victims, or provides them with some form of protection. Discrimination is, therefore, dealt with on a case- by- case basis, depending largely on the identity of the victim, and their willingness to file a lawsuit despite the lack of guarantees for their protection.

Recommendations:

The State Party should:

- Ensure that all communities are able to access equitable justice and adequate remedy, and that their rights to protection within the judicial process are guaranteed.

Issue 4: Please respond to concerns that the vaguely worded article 534 of the Penal Code that criminalizes “any sexual intercourse contrary to the order of nature” continues to be used to arrest and prosecute lesbian, gay, bisexual, transgender and intersex individuals, including for sexual relations between consenting adults of the same sex, despite such an interpretation of the provision being questioned in a few domestic court rulings, and reports that the number of arrests under this article has been on the rise. Please respond to the following allegations and report on measures taken to address them: (a) discrimination, hate speech and homophobic attitudes, and bullying in schools, against lesbian, gay, bisexual, transgender and intersex individuals; (b) arbitrary arrests, forced HIV testing at police stations, violence, torture and ill-treatment of lesbian, gay, bisexual, transgender and intersex individuals by law enforcement officers and blackmail by other persons; (c) instances of anal examinations, despite the ban on such practices in 2012; and (d) impunity for such acts and the lack of legal protection of lesbian, gay, bisexual, transgender and intersex individuals.

Comments from Civil Society

In January 2017, a Lebanese judge issued a court order stating, “Homosexuality is a personal choice, and not a punishable offense.” The ruling recognized that sexual orientation should not be criminalized.

However, article 534 of the Penal Code has neither been amended nor abolished, and LGBTQ+ members continue to be arrested arbitrarily. While in detention, the police continue to threaten the use of “egg tests,” in which animal eggs or sticks are inserted into the anuses of suspected homosexuals, despite being banned in 2009. The police have used anal examinations less frequently but persons arrested are submitted to HIV and drug tests without their consent; in violation of articles 32 and 42 of the Code of Criminal Procedures. Currently, police stations use other techniques such as checking the detainee’s text messages, dating apps, contacts and photos to intimidate them. In one instance in 2013 in Dekwaneh, a northern suburb of Beirut, LGBTQ+ individuals were beaten, “forced to kiss,” and undress in front of the police officers while the officers took pictures.

In February 2016, Shadi (pseudonym), a 31-year old male Syrian refugee, was detained and tortured for five days in a row, under suspicion of being homosexual. According to Shadi, he was tortured by the Military Intelligence, LAF, Military Police and ISF in their individual detention centres. Upon arrest, Shadi was not allowed to call a lawyer nor phone family or friends. He was not informed about the charges against him and was never brought in front of a judge. Shadi was subjected to several forms of intimidation, ill- treatment, and torture throughout his detention, and was also forced to sign a document while blindfolded. A forced anal examination was also conducted to determine how many times he had had sex with men.³

The frequent occurrence of such examples amounts to a systematic practice of ill- treatment and torture, for which LGBTQ+ individuals seem to be at particular risk of due to social, cultural and political exclusion and discrimination.

Recommendations:

The State Party should:

- Prohibit discrimination based on sexual orientation and gender identity
- Enhance the jurisdictions of article 534 to prevent arbitrary interpretations and therefore the risk of persecution of individuals for their sexual orientation
- Public Prosecutors should enforce their orders to prevent the use of inhuman and degrading treatments during primary investigations.
- Require trainings for armed authorities (Internal Security Force and Lebanese Army) on human rights in general, with a discussion of LGBTQ+ related issues
- Protect LGBTQ+ persons from homophobic and transphobic violence by creating an independent mechanism to monitor, document, and report the violations on LGBTQ+ persons in order to assure accountability and protection
- Raise age of consent for everyone to 18 years old
- Safeguard freedom of expression: no LGBTQ+ related content should be banned in movies, TV shows or other forms of artistic expression
- Safeguard and allow association and peaceful assembly for all LGBTQ+ people

Issue 5: *In relation to the previous concluding observations (see paras. 18 and 19), please report on measures taken to address the unequal and discriminatory treatment under the religious-based personal status laws that discriminate against women in such matters as marriage, pecuniary rights,*

³ Human Rights Watch, “Lebanon: Syrian Refugee’s Account of Torture”, December 21, 2016, <https://www.hrw.org/news/2016/12/21/lebanon-syrian-refugees-account-torture>.

divorce, child custody and inheritance, and the limited oversight of the Court of Cassation over religious courts' proceedings and decisions on such matters. In this regard, please indicate whether the State party plans to provide for an optional civil marriage for all Lebanese citizens and legal recognition of such marriages. Please also report on the progress made in amending Decree No. 15 of 19 January 1925 (the Nationality Act) and on any other measures taken to ensure that all Lebanese women, regardless of the nationality of their husband, can pass on their citizenship to their children and spouses.

Comments from Civil Society

Civil marriages that occur outside Lebanese territory are recognized by Lebanon. However, there are few options for civil marriage in Lebanon. The only known civil marriage to occur in Lebanon was between Nidal Darwish and Kholoud Sukkarieh, who removed their religion from their identity cards, an act that has been allowed since 2009.⁴ Once removed, the couple could turn to a law dating from the French Mandate in 1936, which declared that people who do not belong to any particular religion may marry under a civil union. Since then, many political and religious leaders have taken a stand against civil unions in Lebanon due to the lack of non-religious courts to govern family matters and divorce. Yet, in 2014 alone, there were 540 Lebanese civil marriages registered in Cyprus, highlighting both the rise in couples marrying outside of their own religion or choosing to not identify with their religion and the subsequent need for new laws and courts that can govern family matters.⁵

In Lebanon, there are 15 separate personal status courts, each belonging to a recognized religious community, and each with its own set of laws. This multiplicity of legal reference creates gaps and noticeable inequalities among women of different confessions. Women continue to be unable to pass on their nationality to their children and their right to marriage, pecuniary, divorce and child custody depends on their religion. Religious courts still continue to precede the Court of Cassation.

Some of the laws applied by these personal status courts fall short of international standards and lead to violations of rights, especially for vulnerable communities. For instance, the legal age of marriage varies between the different courts. Sunni and Shiite courts recognize marriages of girls as young as 9 years old if approval is granted by the child's parents. In Armenian Orthodox courts however, the legal age of marriage is 14.⁶ In cases of divorce in Sunni and Shiite religious communities, child custody is always given to the father once the child reaches a certain age; this age varies between 2 and 12 years old depending on which religious community they belong to.

In the absence of a civil code regulating personal status matters, citizens have to refer to the laws and courts of their own religious community, or to the law and court of a recognized religious group. Followers of unrecognized religious such as Jehovah's witnesses, Buddhists, and Mormons cannot marry, divorce, or inherit according to their own rules or to a unique civil code.

The State Party should:

- Adopt a law on civil personal status laws that does not adhere to religious regulations
- Amend the Nationality Law to ensure the full equality between men and women concerning granting her the right of giving her nationality to her children and husband

⁴ <https://www.hrw.org/news/2009/02/16/lebanon-removal-religion-ids-positive-not-sufficient>

⁵ <https://www.thenational.ae/world/mena/newlyweds-fight-for-civil-marriages-in-lebanon-1.302018>

⁶ Social Institutions and Gender Index, "Lebanon", <http://www.genderindex.org/country/lebanon>

- Adopt a unified civil personal status law, guaranteeing gender equality, compliant with the Constitution and the international commitments of Lebanon referred to above, according to the freedom of belief and religion, equality in rights, obligations, and responsibilities between men and women within the family and providing the best interest of children
- Amend the laws related to marriage as compliant with the international standards i.e. specifying the minimum age for marriage as 18
- Amend the articles of the Penal Code and criminalize the marriage of a minor without exception, even with parents or guardians give permission (Article 505 & 483)

Issue 6: *Please provide information on measures taken to: (a) eradicate patriarchal stereotypes regarding the role of women and men in the family and in society; and (b) address the underrepresentation of women in public and political life, including in legislative and executive bodies, and report on the status of legislative bills aimed at introducing electoral quotas for women (see CCPR/C/LBN/3, para. 42).*

Comments from Civil Society

Despite some progress, including the ratification of CEDAW by the Lebanese government, full equality between men and women in Lebanon is still far from accomplished.

Since the start of the civil war, there has been little significant change in the role women play in political life. Currently, women occupy less than four percent of the 128 parliament seats in Lebanon. In 2005, women held six seats out of the same total number, signalling a decrease in female representation in parliament.

In local politics however, there has been a steady increase in female representation. The May 2016 elections witnessed the election of 663 women (out of a total of 12,139) into municipal councils and 57 (out of a total of 2,896) mukhtars compared to 536 (out of a total of 11,704) and 39 (out of a total of 2,578) respectively in 2010.

Despite the steady increase of women involved in local politics, the increase in female local politicians is still below most Arab countries with only 526 women in local politics out of the national total of 11,424 seats available. Their role is also typically limited by the president of the municipal council or by other members to sectors that specialize in women's rights and social activities. Therefore, women politicians are often prevented from being a part of the decision-making body of their party. There have been several draft laws written that would ensure that women would make up 33 percent of parliament and local assemblies, yet none have passed.

Recommendations:

The State Party should:

- Adopt women's quota by at least 33% in both the legislative elections and in the cabinet in line with Lebanon's obligations deriving from CEDAW, namely that of Articles 7 and 8 with regards to undertaking all the appropriate measures to eliminate discrimination against women in the political and public life of the country
- Allow Lebanese citizens to change their gender on their ID card through a framework created by the Ministry of Interior with clear guidelines which take into consideration the protection needs of LGBT individuals,
- Encourage Lebanese security sector agencies to have a more gender focused security reform

c. State of emergency (art. 4)

Issue 7: *In reference to the previous concluding observations (see paras. 10 and 11), please clarify whether measures have been or are being taken to review Legislative Decree No. 102/83 and bring it into compliance with article 4 of the Covenant, particularly with regard to non-derogable provisions of the Covenant and to limiting any derogations to those that are strictly required by the exigencies of the situation.*

Comments from Civil Society

The Lebanese government has not shown any intentions to amend the provisions of Legislative Decree No. 102/83, and thus residents remain at risk of violations in case a state of emergency is declared.

Recommendations:

The State Party should:

Revise Legislative Decree No. 102/83 to reinforce the non-derogability of certain rights in a state of emergency.

d. Violence against women, including domestic violence (arts. 2, 3, 6, 7 and 26)

Issue 8: Please report on measures taken to address the reported shortcomings of Law No. 293 of 2014 on the protection of women and other family members from domestic violence, such as: (a) the narrow definition of domestic violence; (b) the absence of criminalization of marital rape, of crimes committed in the name of so-called honour and of other harmful practices; (c) the discriminatory provisions with regard to the criminalization of adultery; and (d) the precedence of customary and personal status laws over its provisions. Please inform the Committee whether Parliament acted upon the agreement reached in December 2016 to repeal article 522 of the Criminal Code exempting a rapist from criminal liability if he marries the victim. Please clarify whether sexual harassment in the workplace has been explicitly criminalized. Please provide statistics on the number of complaints of violence against women, including domestic violence and rape, and on the number of investigations, prosecutions and convictions, and information on the sentences imposed and the compensation awarded to victims.

Comments from Civil Society

Despite several improvements, the narrow definition of domestic violence and the precedence of customary and personal status laws, allows for men to avoid just punishment for domestic violence crimes. Lawyers can still use articles 252 and 562 to claim abuse is justified in cases of “honour crimes (article 562),” and in cases where the state of anger of the perpetrator was caused by an unlawful act while committing the crime (article 252). Not only do these loopholes not deter men from abusing women, but give them an excuse to do so.

In June 2017, ISF officers in Baalbeck shot and killed a teacher who had reportedly had a relationship with the sister of the main shooter. The shooter, an ISF agent was able to claim the murder was not a crime because honor is still a reasonable motive for murder.⁷

In 2014, Manal al-Assi was beaten to death by her husband. The husband’s initial five-year sentence was reduced to three years and nine months after two years in pre-trial detention.⁸ It was not until a public outcry by civil society groups and Lebanese citizens, did the Court of Cassations accept to hold a retrial in late 2016. Manal’s husband was sentenced to 18 years in prison with hard labour.⁹ Cases such as these are common, however there is difficulty in monitoring them, as not many victims or their families seek justice in court.

In April 2017, parliament proposed amendments to Law No. 293 that would clarify the definition of domestic violence as “any action, lack of action or threat of either that reflects the misuse of power within the family through the use of physical strength or other [means].” In August 2017, Lebanese parliament abolished article 522, which allowed rapists to avoid punishment if they are married to their victims. Parliament also repealed article 516, which allowed men who had kidnapped a minor

⁷ The Daily Star, “Policeman shoots teacher in reported honor killing”, June 15, 2017, <http://www.dailystar.com.lb/News/Lebanon-News/2017/Jun-15/409700-policeman-shoots-teacher-in-reported-honor-killing.ashx> (Accessed November 16, 2017)

⁸ Human Rights Watch, “World Report 2017”, January 17, 2017, <https://www.hrw.org/world-report/2017/country-chapters/lebanon>.

⁹ The Daily Star, “Manal Assi’s killer sentenced to death”, November 4, 2017, <http://www.dailystar.com.lb/News/Lebanon-News/2017/Nov-04/425155-manal-assis-killer-sentenced-to-death.ashx> (Accessed November 10, 2017)

and sexually and physically abused them to avoid punishment by marrying said minor.¹⁰ However, articles 505 and 518 continue to be used to exempt rapists from punishment if they've raped a minor between the ages of 15 and 18 and the minor's hand in marriage has been promised to the rapist by the minor's parents.¹¹

Despite several civil society and university campaigns against sexual harassment and a newly formed Women's Affairs Ministry, there is no legislation that specifically outlaws sexual harassment in the workplace.

Recommendations:

The State Party should:

- Amend the law in a manner specifying the protection provisions and measures for women, in particular
 - a. Paragraph 7 of Article 3 provides for "marital rights", which is a flagrant violation of the civil framework of criminal law, while it should be used to sanction marital rape
 - b. Paragraph 2 of Article 12 should be amended to include the protection of the victim's children, regardless of age of custody
 - c. Article 13 should be amended to allow the Public Prosecution authority to issue OFPs, in addition to the Judge in Chambers, to facilitate women's access to justice
- Criminalize sexual harassment in the workplace
- Criminalize corporal punishment administered by parents against their children
- Create a specialized unit of the ISF that will focus on the protection of women against domestic violence

¹⁰ The Independent, "Lebanon has repealed its 'marry your rapist' law", August 17, 2017, <http://www.independent.co.uk/news/world/middle-east/lebanon-marry-rape-law-repeal-womens-rights-sexual-assault-violence-men-attacker-a7898456.html> (Accessed November 9, 2017)

¹¹ Al Jazeera, "Scrapping of Lebanon rape law 'is one small step'", August 18, 2017, <http://www.aljazeera.com/indepth/features/2017/08/scrapping-lebanon-rape-law-small-step-170818142722481.html> (Accessed November 10, 2017)

e. Right to life and prohibition of torture and other cruel, inhuman or degrading treatment or punishment (arts. 6 and 7)

Issue 9: *In reference to the previous concluding observations (see paras. 20 and 21), please report on the progress made towards the abolition of the death penalty, including on the status of bills submitted on this issue by the Ministry of Justice and deputies. Pending the abolition of the death penalty, please indicate whether the State party plans to undertake a comprehensive review of relevant legislation to ensure that the death penalty may be imposed only for the most serious crimes, as prescribed in article 6 (2) of the Covenant, that is, only for crimes of extreme gravity involving intentional killing. Please indicate whether the imposition of the death penalty is automatic and mandatory for certain categories of crime.*

Comments from Civil Society

Despite MP Elie Keyrouz's 2012 draft law supporting the abolition of the death penalty, the death penalty is still a common verdict in Lebanese criminal court.¹² The death penalty remains legal under articles 37 and 43 of the Lebanese Criminal Code (amendment of law No. 463/2002), but only for crimes of extreme gravity.¹³ Despite 109 death sentences in 2016, no executions have occurred since 2004.¹⁴

Several politicians are in favour of the abolition of the death penalty if it can be replaced with life sentences with hard labour, an option which is also in contradiction to the ICCPR. However, there are no existing programs in detention centres designed for hard labour.

Those sentenced to death are typically found guilty of terror-related crimes, such as attacks against military targets and the kidnapping of Lebanese soldiers and policemen. A hundred and six of the hundred and nine persons sentenced to death in 2016, were found guilty of terror-related crimes related to the attacks against military targets in the town of Arsal and the kidnapping of Lebanese soldiers and policemen in 2014.

Recommendations:

The State Party should:

- Ratify the OP2 to the ICCPR on the abolition of the death penalty
- Adopt an official moratorium on death penalty
- Strengthen guarantees for fair trials
- Amend the Lebanese Criminal Code to repeal all provisions entailing the death penalty

¹² The death penalty remains a very sensitive and politicised topic in Lebanon. ALEF has continued monitoring and raising awareness with regards to the death penalty on numerous occasions through lobbying efforts and public statements.

¹³ Lebanon Penal Code art. 549 (1975)

Lebanon Penal Code art. 591.

Lebanon Penal Code art. 599.

Lebanon Penal Code art. 315.

Lebanon Penal Code art. 336.

Law of the Maintenance of the Environment from Pollution by Hazardous Waste and Materials, arts. 10, 11, Law No. 64 of 1988, amended by Law No. 266 of 1993.

Lebanon Penal Code arts. 282, 284, 257.

Lebanon Penal Code, art. 336.

Lebanon Penal Code, art. 258 (1975)

¹⁴ Human Rights Watch, "Lebanon: Don't Resume Executions", June 12, 2017, <https://www.hrw.org/news/2017/06/12/lebanon-dont-resume-executions> (accessed June 14, 2017).

Issue 10: *Please report on measures taken to clarify the fate of thousands of people who were allegedly forcibly disappeared or went missing, including on the progress in establishing an independent national authority mandated to search for the disappeared and missing persons.*

Comments from Civil Society

Detained in Lebanon

The Lebanese Civil War resulted in thousands of disappearances (e.g. missing) that remain unsolved to this day. Out of the 17,415¹⁵ Lebanese citizens reported to have disappeared during the civil war, approximately 2,300 were registered as missing. These numbers are based on police reports and complaints identifying missing persons, still a probable gross underestimate of the real number. In the past, several commissions were created with the mandate of shedding light on the fate of the victims of enforced disappearances but none have led to any concrete results. Despite President Michel Aoun's adamant statements on the need to take action in identifying those who disappeared during the war, there have been no attempts by the State to create an independent national authority mandated to search for missing and kidnapped persons. In 2012, the Committee of the Families of the Kidnapped and Disappeared in Lebanon, as well as other non-governmental groups, proposed a draft law to create an independent national commission that would investigate the fate of the disappeared. Former Justice Minister, Shakib Qortbawi, put forward a draft decree in October 2012, to establish a national commission for the disappeared. Both the draft law and decree are still pending in parliament and the cabinet.¹⁶ Lebanon has also yet to ratify the Convention for the Protection of all Persons from Enforced Disappearance.

MP Ghassan Moukheiber has proposed a draft law that would create a framework providing reparations to the families of the disappeared.

Detained Abroad

In 2016, according to the Lebanese Association for Lebanese Political Prisoners in Syria, approximately 628 Lebanese prisoners remain imprisoned in Syria. Nevertheless, the Lebanese government has done little to bring their citizens home despite having established the joint Lebanese-Syrian Commission in 2005, with the sole purpose of finding missing Lebanese citizens domestically or abroad. After the fall of Palmyra at the hands of the ISIS in 2015, reports circulated about the possibility that ISIS had released the detainees in the city's prison.¹⁷ According to the reports, 27 Lebanese prisoners were released, some of whom had been imprisoned for more than 35 years. Neither the Lebanese Interior Ministry nor any organization representing the rights of families of detainees and missing persons during the Lebanese Civil War were able to confirm the prisoners' release. This raises serious concerns as to the situation of these prisoners currently, especially in light of the conflict in Syria and subsequent human right violations that may occur.

Recommendations:

¹⁵ Amnesty International, "Annual Report 2008 – Enforced Disappearance Update Selected extracts on Enforced Disappearance" August 28, " 2008

¹⁶ Human Rights Watch, Lebanon: Establish National Commission on Disappearances (28 August 2015), available at <https://www.hrw.org/news/2015/08/28/lebanon-establish-national-commission-disappearances>.

¹⁷ MTV Lebanon News, "Mid Day News 21/05/2015 - The Lebanese in Palmyra Prison", <https://www.youtube.com/watch?v=E0O0crCUp7E>, May 21. 2015

The State Party should:

- Ratify the Convention for the Protection of all Persons from Enforced Disappearance, and reform the Lebanese Criminal Code accordingly
- Establish a DNA database to collect data essential for the identification of human remains for families of those missing
- Immediately establish the National Commission on Enforced Disappearances as stated in articles 15 and 16 of the Ministerial Statement of the newly established national unity government, either in the form of a decree as presented to the Government or in the form of a law as presented to the Parliament
- Ensure the independence and transparency of the National Commission on Enforced Disappearances
- Open all the ossuaries and mass graves on Lebanese soil according to internationally-approved protocols for exhumations
- Make public the names of all individuals handed over by Lebanese state services to the Syrian authorities

Issue 11: *Please report on the progress made in defining and criminalizing the offence of torture, including on the status of the proposed amendments to the Criminal Code, and on its conformity with article 7 of the Covenant and other international standards.*

Comments from Civil Society

In Lebanon, torture and ill treatment are prohibited in the Criminal Law, however their narrow definitions have resulted in loophole techniques by law enforcement. Torture is institutionalized, widespread and systematic in Lebanon on behalf of all the services conducting arrests, especially during interrogations.¹⁸ Confessions are still extracted under torture, and deny detainees a fair trial.¹⁹

Police forces have received training on alternative techniques, but torture is still perceived as a justified means of investigation in Lebanon.²⁰ In September 2017, the Lebanese Parliament approved an amendment to article 401, titled Law 65 of the Lebanese Penal Code, which strictly criminalizes torture. However, the new law contains several gaps that might hamper efforts to prevent and criminalise torture and omits key information that would align Lebanese legislation with international recommendations against torture.

The new definition of torture doesn't comply with the norms of the CAT and ignores the concerns raised by UNCAT in April 2017.²¹ Article 1 of law 65 does not mention ill-treatment and the criminalisation of cruel, inhuman or degrading treatment or punishment as defined in the UNCAT.

Under article 1(a) of the amended law, the offence of torture is limited to acts performed "during the investigation, preliminary investigation, judicial investigation, trials and executions of sentences." There should be no limitations on the place and period of torture and ill-treatment.

¹⁸ Lebanon Support - Civil Society Knowledge Centre, Camille Lons, "Is justice for everyone? Arbitrary detention and torture of Islamists in Lebanon", March 03, 2016, <http://civilsociety-centre.org/content/justice-everyone-arbitrary-detention-and-torture-islamists-lebanon> (January 25, 2017).

¹⁹ Ibid.

²⁰ Ibid.

²¹ Alkarama, "Lebanon: UN Committee Deplores Routine Use of Torture", May 12, 2017, <https://www.alkarama.org/en/articles/lebanon-un-committee-deplores-routine-use-torture> (accessed November 2, 2017).

Torture and ill-treatment may occur at any place of deprivation of liberty including secret detention facilities, inter alia, psychiatric hospitals, nursing homes.

The new law introduces penalties for acts of torture that don't commensurate with the gravity of the crime. Article 1(b) of the law states that "[a]nyone who perpetrates torture shall be liable to imprisonment from one to three years, if torture does not result in death or permanent or temporary physical or mental disability." Indictments such as these do not equate the pain and suffering caused upon the victim, and can often be shortened to a few months. The lack of deterrence against torture in Lebanese courts, creates a climate of impunity among officers.²²

Under law 65, acts of torture can be subject to statutes of limitation. Judicial proceedings can only be initiated within a three to ten-year period after the victim has been released from prison, varying in length depending on the gravity of the act. In accordance with Article 4 of the UNCAT, law No. 65 should criminalize any attempt to commit torture, and any act by any person which constitutes complicity or participation in torture.

With regards to victims' rehabilitation, the investigating judge has been granted the authority to determine the necessary rehabilitative services and adequate compensation. However, the law does not provide an exhaustive mechanism of "effective remedy" and "reparation". Also, law 65 does not reflect on any protection mechanism for victims as well as witnesses.

Article 14 UNCAT gives the victim of torture the right to redress. However, the Lebanese government does not currently provide torture rehabilitation services and does not provide victims of torture with reparations, i.e. restitution, compensation, rehabilitation satisfaction and guarantees of non-repetition as stated in the General Comment No.3. NGOs²³ act in place of the government, providing torture survivors with rehabilitation and mental health services. Additionally, NGOs aid in improving survivors' vocational ability, as well as their full inclusion and participation in society.²⁴

Moreover, the law doesn't address the jurisdiction of the military court over cases of torture involving state agents. If the perpetrator is a member of the military, their trials occur in military court. However, adequate justice in such instances is difficult to pursue, since military court decisions are not available to the public. Investigations led by military authorities themselves are also a problem as they prevent independence and unbiased investigation.

On June 30, 2017, the Lebanese Army raided refugee camps in Aarsal and detained 356 people including children, on the grounds that they were arresting "terrorists".²⁵ On July 4, a statement by the army announced the death of four of Syrians in custody. According to an expert doctor, the photographs of the bodies showed injuries that are consistent with physical torture and contradict statements that the deaths were a result of natural causes.²⁶ The investigation led by the military judicial authorities concluded that the deaths were not caused by violence but by chronic diseases.

²² Alkarama, "Lebanon: New Anti-Torture Law a Missed Opportunity, Fails to Meet Standards of UN Convention Against Torture", September 29, 2017, <https://www.alkarama.org/en/articles/lebanon-new-anti-torture-law-missed-opportunity-fails-meet-standards-un-convention-against>.

²³ AJEM – Roumieh and Rabieh

²⁴ Joint shadow report submitted to the committee against torture UNCAT – 20 march 2017

²⁵ Al Monitor, "Despite Probe, Questions Remain After Syrians Die in Lebanese Custody", August 1, 2017, <https://www.al-monitor.com/pulse/originals/2017/08/lebanon-army-detain-syrian-refugees-die-torture.html> (accessed November 1, 2017).

²⁶ Human Rights Watch, "Lebanon: Deaths, Alleged Torture of Syrians in Army Custody", July 20, 2017, <https://www.hrw.org/news/2017/07/20/lebanon-deaths-alleged-torture-syrians-army-custody> (accessed October 31, 2017)

These findings were clearly inconsistent with the other elements, but the details of the investigation and the relevant documents were not shared with the public.²⁷

In cases where torture does not result in, “death or permanent or temporary physical or mental disability,” the case will not be admissible in court as it does not meet the aforementioned criteria.²⁸ In November 2016, eighteen-year-old Mohammed Salmoun was suspected of murder. He was transferred to Tarik Jdideh police station where he was subjected to severe beating and torture by officers at the station. Salmoun was later released when police realized Salmoun was innocent. The Public Relations Division of the ISF issued a statement in response saying that the Director - General of the security forces, Major General Ibrahim Basbous, ordered an investigation into the case, and the necessary measures should be taken subsequently. No further information was given to the public.

Recommendations:

The State Party should:

- Limit the military courts prerogatives to appropriate military matters, based on which the court will be allowed to try military officers and military cases only, and transfer to ordinary courts the jurisdiction of trying civilians. Cases of torture must subsequently be brought before civilian courts to ensure the victims’ due process rights, and guarantee their access to a fair trial before an impartial tribunal
- Criminalize torture in line with the definition in Article 1 UNCAT, and repeal legislation relating to the amnesty or limitation periods of a crime
- Criminalize cruel, inhuman or degrading treatment or punishment in line with the definition in Article 16 UNCAT
- Criminalize any attempt to commit torture and any act by any person which constitutes complicity or participation in torture
- Create sentences for the crime of torture to reflect the gravity of the offence
- Enforce the prohibition of admission of statements that are extracted through torture or coercion and require judicial authorities to thoroughly investigate the circumstances under which confessions were allegedly obtained through torture or ill-treatment. Establish an exhaustive mechanism of “effective remedy” and “reparation” in reference to the General Comment No.3 of Article 14 under the CAT.
- Establish a protection mechanism for torture victims and witnesses.

Issue 12: *Please comment on reports of torture and ill-treatment of persons deprived of liberty by law enforcement officials, including of sex workers, drug users and lesbian, gay, bisexual, transgender and intersex individuals by the Internal Security Forces, and on the reported impunity for such acts. Please report on measures taken to ensure that allegations of torture and ill-treatment, including the alleged torture of prisoners in Roumieh prison captured in videos leaked in June 2015, are promptly investigated by an effective and fully independent mechanism, that perpetrators are prosecuted and punished accordingly and that victims are protected from retaliation and are provided with full reparation, including rehabilitation and adequate compensation. Please provide relevant statistics on the number of reported cases of torture and ill-treatment, the investigations and prosecutions initiated, the number of actual criminal convictions, and the sentences imposed. Please report on the*

²⁷ Ibid.

²⁸ Alkarama, “Lebanon: New Anti-Torture Law a Missed Opportunity, Fails to Meet Standards of UN Convention Against Torture”, September 29, 2017, <https://www.alkarama.org/en/articles/lebanon-new-anti-torture-law-missed-opportunity-fails-meet-standards-un-convention-against> (accessed November 1, 2017)

progress made in establishing the Committee for the Protection from Torture that would act as a national preventive mechanism and on measures taken to ensure its effective functioning.

Comments from Civil Society

Between 2009 and 2015, statistics show that 60% of persons arrested in Lebanon for over a year are subjected to torture and serious ill treatments, specifically during preliminary investigations and/or during “administrative” detention.²⁹ Fifty-two percent of female detainees, who were interviewed by an NGO, were victims of torture.³⁰ While, detained refugees are forced to sign a statement confirming their “voluntary repatriation” to their country of origin after being tortured.

Torture is systematic and should be taken extremely seriously. Members of army intelligence reportedly attend the first session with the military investigative judge to prevent the detainee from complaining of torture. After the initial interrogation without a lawyer, the detainee is allowed to meet with their lawyer and family, but the meeting is monitored by army personnel. Judges sometimes threaten detainees by telling them that if the detainees do not repeat at trial their original confession (made under torture), the detainees will be sent back to the police states where they were tortured. Detainees are sometimes not transferred to civil prisons after the first hearing, to prevent them from complaining.³¹

Law enforcement officials continue to mistreat and at times, torture vulnerable communities such as sex workers, drug users and LGBTQ+ members. It is common practice by Lebanese security forces to subject persons under arrests to mandatory and arbitrary urine tests despite the nature of the charges brought against them. Refusal to submit to these tests is also considered by the authorities as admission of guilt to drug use which is a crime under Lebanese law. The practice is thus in clear violation of article 7 and 17 of the ICCPR.

Drug users who are arrested are not given the proper withdrawal treatment. ISF members underestimate the length of the withdrawal phase. Drug users are also tortured in police stations to convince them to give up their dealer. When a group of drug users are arrested, they are forced by torture to tell on each other and give up a leader.

Roumieh Prison

Following the leak of the Roumieh prison videos, only four ISF officers were referred to the military tribunal. However, the videos and pictures show that responsibility for such actions extended to a broader range of administrators. The judicial follow up provided accountability, yet it failed to provide justice and remedy for the victims. The judicial proceedings did not hold those who had given the orders to commit torture accountable. The proceedings aimed only to solve the short-term consequences of the issue, not the deep-rooted cause.

The prison guards who tortured prisoners in Roumieh were arrested and charged with assault, torture and hiding information in a military court. However, they are still awaiting sentencing and the victims of torture in Roumieh prison have not received full reparations.

²⁹ CLDH, Shadow Report: Submission to the Committee Against Torture in Relation to its Examination of the Initial Report of Lebanon (March 2016), at 7.

³⁰ CLDH, Women Behind Bars: Arbitrary Detention and Torture (April 2015), at 21.

³¹ CLDH, Shadow Report: Submission to the Committee Against Torture in Relation to its Examination of the Initial Report of Lebanon (March 2016), at 15.

Reform measures against torture in prisons and security offices

There has been no evidence of progress in promoting reform measures to increase the transparency and accountability of security forces. In the past, Lebanon sought the adoption of different mechanisms to prevent torture in prisons and security offices. Such mechanisms promoted institutional instruments for complaints, as well as detection and investigation of torture practices. Certain state agencies have certainly committed to these, such as the ISF, which established a department of human rights, a committee against torture, a Code of Conduct (CoC), and a memorandum that describes the role of ISF units in the application of the UNCAT. Unfortunately, these mechanisms remain far from being effective instruments in preventing torture. The ISF committee against torture is given the investigative power over offenses committed by its own members, questioning its ability to act effectively and non-biased. This committee lacks any internal SOPs and acts on an ad hoc basis. It has failed to adopt a victim friendly complaint mechanism, is unable to react to pervasive torture, and most importantly is unable, and often unwilling, to transparently report on the cases it has followed up on.

Since the issuing of the decree in the late 1960's, the transfer of the prison's administration from the MoI to the MoJ has progressed, albeit slowly. The MoJ has since established a directorate general for prison administration who is responsible for the administration of prisons and implementation of prison rules and regulations. Further steps await the promulgation of laws essential for the full transfer of jurisdiction.

The transfer of jurisdiction will not only facilitate the administration of justice, but also reinforce that the criminal justice system is meant to rehabilitate perpetrators and protect victims, instead of solely focusing on punishment.

Complaint Mechanisms

Shadi (mentioned above), who was tortured during his detention in February 2016, filed a complaint with the Ministry of Defence, Interior and the Military Intelligence for compensation and accountability. The Ministry of Interior responded by stating that although a complaints procedure does exist, the ministry would be unable to pursue an investigation and penalize offending officers unless the victim filed a complaint at the police station where he was tortured. By forcing Shadi to hand in a complaint to those who ill-treated him, they not only put him in harm's way but violate the victims' protection principles, and directly challenge the right to compensation.

Since the Committee for the Protection from Torture has yet to be established, there are no fully independent mechanism that investigate torture claims occurring during interrogations and detention.

Recommendations:

The State Party should:

- Pass legislation to criminalize all forms of torture and ill-treatment, in accordance with article 1 CAT
- Thoroughly investigate all allegations of torture and mistreatment by security forces, and prosecute offenders to the full extent of the law
- Designate qualified members of the National Human Rights Institute and consequently the National Prevention Mechanism

- Ensure the NHRI is able to visit all detention sites in the manner and frequency the NHRI sees fit
- Ensure that all law enforcement officials and agencies fall within the mandate of an independent complaints, monitoring and investigative body. The independent body should be equipped with sufficient resources and powers to function effectively. These resources and powers should include, but are not limited to: human resources, the ability to access documents and other pertinent information, as well as the power to summon witnesses
- Transfer the management of prisons from the MoI to the MoJ pursuant to 1964 Decree-Law No. 17315. The directorate of prisons body should be equipped with sufficient resources and powers to function effectively

Issue 13: *Please clarify and provide information on the measures taken to bring the legislation on abortion into line with the Covenant, including: (a) addressing the criminalization of voluntary termination of pregnancy; and (b) ensuring that therapeutic abortion is accessible in all cases where a woman's health is at risk.*

Comments from Civil Society

The Lebanese law strictly prohibits abortion unless the child may pose a risk to maternal health. The law punishes a woman who aborts willingly by imprisonment from 6 months to 3 years. It punishes the person who conducts the abortion or attempts it with the woman's consent by imprisonment from one to 3 years. The sanction is more severe in certain cases, where it ranges from 4 to 10 years. In September 2015, a Bengali woman was convicted in absentia of the crime of voluntary abortion, and fined 500,000 Lebanese Pounds (US\$330). This was after she had ingested medication to induce an abortion, and was subsequently hospitalized for severe haemorrhaging in 2013.³²

Recommendations:

The State Party should:

- Ensure that legal abortions are performed safely by professional doctors

³² See: The Legal Agenda, "Ignoring the Plight of Lebanon's Foreign Domestic Workers: A Bengali Woman's Abortion", February 2018, available at: <http://legal-agenda.com/en/article.php?id=4115>

f. Liberty and security of person and treatment of persons deprived of their liberty (arts. 7, 9 and 10)

Issue 14: Please respond to reports of: (a) arbitrary and extrajudicial arrest and detention by security forces and some armed groups, including incommunicado detention, with no access to a lawyer; (b) high numbers of prisoners in pre-trial detention; and (c) prolonged pre-trial detention, of a year or more; and provide information on non-custodial alternative measures to pre-trial detention and their application in practice. Please clarify whether the defense counsel is permitted, both in law and in practice, to attend the interrogations of his or her client during the preliminary investigation, and report on measures taken to ensure that all persons deprived of their liberty have, in practice, prompt access to a lawyer from the very outset of their custody. Please explain how the requirement for an investigating judge to consult the Public Prosecutor's Office before ordering an alternative measure to pre-trial detention is applied in practice. Please provide information about the growth of private security groups and about the so-called "legal and security committees", which can reportedly arrest and hold individuals in pre-trial detention, and clarify the legal status of these groups and the legal basis on which they operate.

Comments from Civil Society

Cases of arbitrary arrest rose in 2016. In many of these cases, the deprivation of liberty was justified by the "challenging security situation"; however, this pretext is overused and has become obsolete. These cases are not based on a legal decision and are a violation of the rights and freedoms protected under ICCPR.

Prisons remain significantly overcrowded due to lengthy pre-trial procedures, in addition to the prisons' limited capacities. In July 2016, the prison population in Lebanon reached 6,200 individuals in the 23 places of detention designed to hold a total of 3,500 inmates. Of these prisoners, 55.63% were in pre-trial detention, only a slight improvement compared to 57.09% in early 2016.

Lebanese law can be interpreted to mean that a lawyer does not have to be present during the initial interrogation and investigation; opening the door to forced confessions or other abuses at the police station. Article 47 of Criminal Code of Procedure gives the right to any accused person to contact an attorney, but it does not require counsel to be present during investigative hearings.

Once someone is arrested, however, a judge must be notified of their arrest for it to be considered legitimate. However, the army and the Ministry of Defense rarely do so. Suspects can be detained for up to several months in custody before being presented to a judge. As long as they are not presented to a judge, detainees are denied basic rights, such as receiving visits or contacting a lawyer.³³

The 2015 Universal Periodic Review for Lebanon, found that many detainees at police stations do not have direct access to doctors or lawyers. Sometimes they're held incommunicado for days, and are not given language assistance. According to Lebanese law, preventive detention under the judicial police should last for a maximum of 48 hours, renewable for a similar period based on the prosecutor's justified decision. This period is often not respected, however. The overcrowding of

³³ CLDH, Shadow Report: Submission to the Committee Against Torture in Relation to its Examination of the Initial Report of Lebanon (March 2016), at 15.

preventive detention facilities does not only affect the standards of detention, but also makes it harder for the arrested to access their rights.³⁴

According to Article 108 of the Criminal Code of Procedure, pre-trial detention should last no longer than two months for a misdemeanour, renewable once, and no longer than six months for a felony, with the exception of accusations of terrorism, murder and drug related crimes. During this period, access to legal aid is still not guaranteed. First, as reported by the president of the Beirut Bar Association Legal Aid Committee, only 30 out of the 1400 cases assisted by the association in 2016 were referred by investigative judges. At this stage, judges do not inform the accused of their right to a lawyer. Often times, judges may exaggerate the waiting time for the appointment of a lawyer in hopes that the accused will decide to move forward with their case without one. When the accused presents a request for a lawyer, their role remains limited. During the investigation, lawyers do not have access to their client's file. For more serious accusations, lawyers cannot assist their client during interrogations unless they have the power of attorney. Consequently, lawyers are not able to monitor the development of investigations and intercede for their clients. This has resulted in a number of vulnerable inmates lacking any sort of external support and legal assistance.³⁵

Article 111 of the Lebanese Code of Criminal Procedure provides alternatives to pre-trial detention:

"After consulting the Public Prosecutor's Office, the Investigating Judge may, irrespective of the nature of the offence, release the defendant and place him under judicial supervision, with one or more of the following conditions that such supervision requires, notably:

- a. To reside in a specified town, borough or village, not to leave it and to elect a domicile therein;
- b. Not to frequent certain establishments or places;
- c. To deposit his passport with the registry of the Investigation Department and to notify the Directorate-General of Public Security thereof;
- d. To undertake not to move outside the area of supervision and to report regularly to the supervisory office;
- e. Not to engage in certain occupational activities that the Investigating Judge has prohibited during the period of supervision;
- f. To undergo regular examinations by physicians and experts during a period specified by the Investigating Judge;
- g. To deposit surety, the amount of which shall be determined by the investigating judge. The investigating judge may vary the supervisory obligations as they see fit. If the defendant breaches one of the supervisory obligations imposed on the judge, they may decide, after consulting the Public Prosecutor's Office, to issue an arrest warrant against the judge and to forfeit surety to the Treasury."

Article 111 reveals several issues. First, subsections a) and b) cannot be applied effectively because there is no oversight mechanism and no way for law enforcement officials to follow-up on an individual whereabouts, or know for a fact that the individual is complying with area restrictions. Other countries use electronic ankle monitors, however in Lebanon, such technology is not available due to a lack of financial resources and technical knowledge. Subsection c) passport handovers are effective and widely practiced. Subsection d) requires the accused to report to the supervisory office. There is no such supervisory office established with the mandate to receive and record reports. Finally, subsections e) f) and g) are also implemented in practice and work effectively.

Despite the above-mentioned measures, some law enforcement officials, public prosecutors and investigating judges believe in the validity of pre-trial detention. They fear that if the accused is not

³⁴ CLDH, Legal Aid to Vulnerable Individuals (2017), at 14.

³⁵ CLDH, Legal Aid to Vulnerable Individuals (2017), at 15.

held in pre-trial detention, they may abscond since further investigations could confirm the accused is the culprit.

Recommendations:

The State Party should:

- Amend the code of criminal procedures to clearly adopt all fair trial standards at all stages
- Sanction the non-observance of these standards at all levels, from investigation to court hearings by nullifying the proceedings and making those responsible of violations accountable
- Enhance effective access to legal aid, making State legal aid compulsory, to all defendants, before all courts and for any crime
- Enhance effective access to interpreters in places of detention and all stages of trial for those who do not speak Arabic
- Implement article 47 of the code of criminal procedure to explicitly guarantee suspects the right to a lawyer during primary investigations
- Ensure medical doctors are available to the accused during trial
- Ensure juveniles have access to juvenile social workers throughout the trial and after if they are found guilty, and expand the function of the juvenile social workers beyond the Union for the Protection of Juveniles in Lebanon (UPEL)

Issue 15: *With reference to the previous concluding observations (see para. 17), please report on measures taken to: (a) address severe overcrowding and poor living conditions in police detention centres and in prisons; and (b) ensure the segregation of remand detainees from convicted persons. Please elaborate on measures taken to investigate the 81 deaths that occurred in the prison system between 2012 and 2016. Please comment on reports of long-term detention of juvenile offenders together with adult offenders in the cells of the Baabda Palais de Justice which were designed for several hours' detention, in overcrowded and dilapidated cells. Please report on measures taken to address inter-prisoner violence, particularly in Roumieh prison.*

Comments from Civil Society

Despite concerns by local and international organizations, prisons and police stations in Lebanon remain significantly overcrowded.

Significant overcrowding is mostly due to lengthy pre-trial procedures in addition to the prisons' limited capacities. In June 2017, there were 6,246 individuals in the 23 places of detention designed to hold a total of 3,500 inmates. Fifty-seven percent of these prisoners are in pre-trial detention,³⁶ an increase of two percent since July 2016.³⁷

These figures, however, exclude detention centers such as the DGGS prisons, which holds foreign detainees, the Ministry of Defence prison, the newly reopened Adlieh prison, and police stations.

Police centres continue to be used as detention centres for longer than the 48-hour limit. Due to the lack of space and infrastructure for long-term arrests, there are no systems in place to provide detainees with food or basic sanitation needs. Police station and justice palaces were not built to

³⁶ "Numerical Count of Inmates Present in Lebanese Prisons", June 9, 2017.

³⁷ "Numerical Count of Inmates Present in Lebanese Prisons", July 26, 2016.

sustain high numbers of prisoners and are not equipped with their daily needs. The overcrowding has also required the ISF to put juvenile detainees in the same cells as adult prisoners. The overcrowding is often so severe that the prisoners must take turns sleeping on the limited cots available.

Detainees' families must provide food and other needs such as clothing and mattresses for the length of the detention period, and even then, a set location or duration for visits is unspecified. Some detention cells in police stations don't have light, or aeration. Police officers end up installing makeshift aeration systems from the available material.

In January 2015, the Ministry of Interior authorized a massive security raid in Roumieh, ending years of impunity and chaos inside the prison. Although the new measure halted a myriad of ill practices in Roumieh prison, impunity continues to prevail within the prison by the same security officials and inmates responsible for previous issues.³⁸

Recommendations:

The State Party should:

- Ensure the Defense Ministry Prison and the Retention Centre follow international standards and have sound infrastructure that can handle large number of prisoners while still protecting their human rights
- Improve the legal aid system to assist inmates who cannot afford lawyers
- Accelerate the trials of arrested detainees so that pre-trial detention cases and overcrowding decrease.
- Provide detainees with medical services including medications (even if they are not available in pharmacies) and hospitalization, free of charge, and ensure that only health care experts are involved in the management of the medical services to sick inmates, as well as guarantee the provision of specialized doctors and establish a drug addiction program.
- Keep detention centres clean by providing free of charge cleaning and adhere to international standards for hygiene in detention centres
- Establish a complaint system in order to allow persons deprived of their liberty to make requests or complaints to the chief of prisons and have the opportunity to discuss issues freely and in full confidentiality with the chief. Every request or complaint shall be promptly dealt with and replied to without delay
- Conduct spontaneous visits to inspect places of detention to ensure decent and safe living conditions for prisoners and to monitor and evaluate ISF members. All monitoring should be published and available to the public in order to improve the transparency of the monitoring agencies inside the ISF

³⁸ <https://alefliban.org/publications/annual-report-2015/>

g. Elimination of slavery, servitude and trafficking in persons (arts. 2, 7, 8 and 26)

Issue 16: Please provide information on measures taken to: (a) address reports of exploitation, forced labour and trafficking in persons, particularly among groups at risk, such as Syrian refugees; (b) ensure the efficient identification of victims and provide protection and assistance services, and ensure that victims are not punished for unlawful acts committed as a direct result of being trafficked; and (c) investigate all cases of exploitation, forced labour and trafficking, and prosecute the perpetrators effectively. Please clarify whether the State party is considering reforming the sponsorship (kafala) system and elaborate on measures taken to: (a) address the exploitation and abuse of migrant domestic workers; (b) expand labour law protection to migrant domestic workers; and (c) provide for effective access to legal avenues for protection of their rights without fear of reprisal or deportation. Please also comment on the reported practice of arbitrary denial of residency renewals to female migrant workers with children and their detention and deportation.

Comments from Civil Society

Trafficking

In March 2016, Lebanese security officers freed as many as 75 Syrian women from two brothels.³⁹ Some of the women said they were widows who had fallen victim to trafficking schemes out of a need for economic security.

Female victims of trafficking rarely reach out to security forces because they are unable to detect and appropriately deal with such cases. In 2011, the Ministry of Social Affairs was required to establish a trust fund for victims of sex trafficking, however the fund is still non-existent.⁴⁰ Without the fund, victims of sex-trafficking are at a greater risk of falling back into a cycle of violence and exploitation.

Migrant Domestic Workers

The Lebanese Labour Law excludes migrant domestic workers from its provisions, placing them under the control of the sponsorship system, better known as the Kafala system. The Kafala system places more power in the hands of the employer, providing them with absolute control over the legal status and work permit of the MDW. Common complaints made by MDWs are: non-payment, delayed payment, forced confinement, no time off, and verbal and physical abuse. Migrant domestic workers face legal obstacles and risk imprisonment and deportation if they sue their employers for abuse due to the restrictive visa system. As of 2016, there were multiple reports of suicide and attempted suicide in the migrant domestic worker community in Lebanon.⁴¹ In June 2017, an Ethiopian domestic worker, identified by her initials N.D., was found hanging off a tree branch near her employers' home. Investigators have ruled her death a suicide, but the reason for her suicide remains unknown.⁴²

³⁹ Naharnet, "Syrian Held for Sex Trafficking in Lebanon Released on Bail", June 23, 2017, <http://www.naharnet.com/stories/en/231911> (Accessed November 16, 2017)

⁴⁰ Human Rights Watch, "World Report 2017", <https://www.hrw.org/world-report/2017/country-chapters/lebanon>, (accessed June 19, 2017).

⁴¹ Human Rights Watch. (2016). *Lebanon "Events of 2016"*. Retrieved June 8, 2017, from Human Rights Watch: <https://www.hrw.org/world-report/2017/country-chapters/lebanon>

⁴² The Daily Star. (2017, June 5). *Ethiopian domestic worker commits suicide*. Retrieved June 7, 2017, from The Daily Star: <http://www.dailystar.com.lb/News/Lebanon-News/2017/Jun-05/408496-ethiopian-domestic-worker-commits-suicide.ashx>

Presently, the National Steering Committee under the Ministry of Labour is discussing alternatives to the Kafala system. In the meantime, they have hired an independent ILO expert to find ways to improve the current system.

Migrant domestic workers continue to be arbitrarily denied residency permits. One of General Security's objectives is to deport migrant domestic workers who are employed by more than one employee rather. They often focus more on this objective than the monitoring of the flow of migration, and the assurance that vulnerable communities are safe in Lebanon. Even MDWs with valid residency permits are detained and deported for not residing with their employer. In spite of the presence of around 85,000 MDWs who reside independently, the overwhelming majority of those who were deported had children. These tactics indicate that this requirement is being used as a justification to deport MDWs who might start families and live permanently in Lebanon. General Security has unofficially stated that the purpose of MDWs in Lebanon is to work, not to start a family. The effects of these deportations are devastating. The children of MDWs who remain in the country when their parent/s are deported are not able to attend school or work.

Recommendations:

The State Party should:

- Establish a comprehensive rights-based protection framework for stateless persons, in order for them to be identified, registered and issued with documentation as well as to ensure their access to basic and fundamental rights
- Require contracts signed in the migrant domestic worker's native language to be legally binding in Lebanon
- Initiate reforms insuring the respect to the rights of migrant domestic workers preventing any form of abuse and exploitation especially in the trial process
- Ensure that the victim of trafficking is not treated as a criminal; the burden of proof falls on the authorities and not on the victim
- Ensure the right of the victim to participate in the legal process that may require the issuance of a residence permit
- Reform the visa sponsorship system (Kafala) so that workers' visas are no longer tied to individual sponsors, and they can terminate employment without sponsor consent
- Reinforce the role of the Ministry of Labour and monitor the situation of irregular workers
- Extend labour protections in national law to domestic workers and introduce additional protections in line with the ILO Domestic Workers Convention
- Set up monitoring mechanisms, in consultation with civil society, to detect and investigate cases of domestic workers' abuse
- Ensure that General Security considers the family interests involved before rejecting the renewal of residency for workers and their children or considering their expulsion
- Ratify the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Migrant Workers Convention) and the ILO Domestic Workers

h. Rights of refugees and asylum seekers and freedom of movement (arts. 7, 12, 13, 16 and 26)

Issue 17: *Please respond to reports of restricted access to asylum following the strict border admission regulations in place since January 2015, and report on measures taken to ensure that all persons in need of international protection are allowed access to the country under the current policy on refugee and asylum seeker admissions and that the principle of non-refoulement is strictly respected. Please comment on reports of: (a) prolonged administrative detention of asylum seekers and refugees, other than Syrian nationals, and their expulsion, and the lack of appeal procedures relating to administrative detention or expulsion; (b) detention of child asylum seekers and child refugees in Lebanon on various grounds and without due process; and (c) unlawful curfews imposed by certain municipalities on Syrian refugees. In relation to paragraph 23 of the State party's report (CCPR/C/LBN/3), please elaborate on measures taken and progress made to ensure that all Palestine refugees fleeing the conflict in the Syrian Arab Republic and Palestine refugees living in Lebanon have valid residency documents and an appropriate legal status and do not risk deportation.*

Comments from Civil Society

Syrians either seeking admission into Lebanon, or already living in Lebanon face a variety of obstacles violating their human rights. The January 2015 regulations provide a list of six types of visa categories that Syrians must obtain to enter Lebanon. All require specified documents, including proof of hotel bookings for tourists, and appointments for those seeking medical treatment.

According to Lebanon's General Security, which issued the decree, exceptions will be made for humanitarian cases in coordination with UNHCR. However, authorities are still working to specify the criteria for such cases to be allowed in to Lebanon. The Ministry of Social Affairs reportedly stated, 'extreme humanitarian cases' would still be granted entrance to the country. However, they have not defined 'extreme humanitarian case,' underlining concerns that many would-be refugees may be denied access to safety in Lebanon.

Refugees already in Lebanon who were registered with UNHCR prior to January 2016, will be able to renew their residency permits every six months for a fee of \$200 USD. Many refugees are unable to afford these fees. Those that are not registered with UNHCR, or registered after January 2016, are required to apply for visas under the new regulations and will need to present the necessary documents to avoid paying the fee.

For Palestinians, the issue is more complicated. They fall under the auspices of UNRWA instead of the UNHCHR, and therefore must pay the \$200 residency fee to live legally in Lebanon.

If refugees are arrested due to a lack of residency permits, there is no limit as to the amount of time they can spend in the immigration detention centre. Many have been there for years. Child refugees are typically detained with their mothers or are detained alongside adult criminals in police stations or penitentiary institutions.

Many municipalities have also enacted curfews for "foreigners," but target Syrians and Palestinians. When caught outside past curfew, refugees are arrested and may remain in jail arbitrarily.

Recommendations:

The State Party should:

- Establish a legal mechanism to ensure the protection of refugees and asylum seekers, particularly against arbitrary detention and refoulement
- Continue to provide access of Syrian refugees on the basis of stricter review process in compliance with international refugee law standards, in particular the principle of non-refoulement and with human rights law
- Initiate the necessary steps for the drafting of a national policy to serve as a comprehensive framework to govern admission, status and reception conditions, in coordination with key relevant actors, notably the UNHCR and taking into account the current discussions on the adoption of a Memorandum of Understanding
- Establish a comprehensive rights-based protection framework for stateless persons, in order for them to be identified, registered and issued with documentation as well as to ensure their access to basic and fundamental rights
- Facilitate access to protection and legal documentation for refugees in Lebanon
- End the use of discriminatory curfews for Syrian refugees
- Ratify the 1951 Refugee Convention and its 1967 protocol
- Separate children from adult criminals while in police stations and detention centres

i. Access to justice, independence of the judiciary, and fair trial (arts. 2 and 14)

Issue 18: *In reference to the previous concluding observations (see para. 15), please report on measures taken to ensure, in law and in practice, the full independence and impartiality of the judiciary, including information on the procedures and criteria for the selection, appointment, promotion, suspension, disciplining and removal of judges. Please also report on the status of bills aimed at ensuring the independence of the judiciary (see CCPR/C/LBN/3, para. 97).*

Comments from Civil Society

There have been no recent measures taken to ensure the full independence and impartiality of the judiciary. Still, for a tribunal to be truly competent in making a fair decision, the judges, within the limits of the law, must be independent and impartial⁴³. The perception among Lebanese youth and former prisoners participating in a focus group by ALEF is that rich defendants, and those with strong backing or connections “do not even get transferred to the court since they are released beforehand”⁴⁴. On the other hand, judges never admit that they’ve been subjected to political pressures.⁴⁵ This pressure to change verdicts based on political interference is related in part to the appointment of judges based on a decree by the government, and not by a politically neutral organ.

This is not based on a defined system and should be done according to the integrity, competence, and experience of the judge; however, this is not always the case. Political influence in the appointment of judges has corrupted the system.⁴⁶ One high ranking official in the Internal Security Forces, Brigadier Charbel Matar, disclosed that some judges do exert pressure on police investigators so they speed up the process or get confessions from detainees. Judges also turn a blind eye to detainees who have been tortured in prison⁴⁷. One Lebanese lawyer when interviewed by ALEF said that if he had a problem with the law, he would resort to court. However, he would not go to the police because he does not trust them and that there is where most violations take place.

The impartiality of judges and their independence are put in jeopardy by the Military Court where the majority of judges are from the military, which cannot be objective while trying civilians. The judges are also appointed by the Minister of Defense based on the recommendations of the affiliated military body, affecting their degree of independence. The Judicial Council, another court which is subject to influence by political parties in power, is often criticized for being very vulnerable to political pressures, especially since its cases are given by the Cabinet.

Recommendations:

The State Party should:

- Ensure all serving judges are fully independent and impartial, including ensuring that no judge is within the military chain of command
- Not appoint judges based on a decree by the government but by a politically neutral organ

⁴³ ICCPR, Article 14(1); Lebanese Constitution, Article 20

⁴⁴ LCPS, Right to a Fair Trial Focus Group Report, LCPS, 2015

⁴⁵ LCPS, Right to a Fair Trial Focus Group Report, LCPS, 2015

⁴⁶ Elias Chalhoub, Report on the State of the Judiciary in Lebanon, Arab Center for the Development of the Rule of Law and Integrity, n.d.

⁴⁷ The Daily Star, “Qortbawi: Lebanon has not implemented anti-torture protocols” February 15, 2012, <http://www.dailystar.com.lb/News/Politics/2012/Feb-15/163311-qortbawi-lebanon-has-not-implemented-anti-torture-protocols.ashx>

- Limit the military courts prerogatives to appropriate military matters, based on which the court will be allowed to try military officers and military cases only, and transfer to ordinary courts the jurisdiction of trying civilians
- 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 decision
- Include CAT provisions in the domestic law

Issue 19: *With reference to the previous concluding observations (see para. 14), please provide information on measures taken to review the broad jurisdiction of military courts and to ensure that civilians and children, as well as cases involving human rights violations, remain outside the jurisdiction of such courts. Please also report on measures taken to address: (a) the lack of independence and impartiality of military court judges; and (b) alleged violations of the rights of the accused, including torture and the use of forced confessions as evidence, interrogations in the absence of a lawyer, arbitrary sentences and limited rights to appeal. Please also respond to reports that the overbroad jurisdiction of the military courts is used to suppress political speech or activism.*

Comments from Civil Society

In Lebanon, the military court rules over both military members and civilians. Their jurisdiction remains vague. They may try military members in non-military cases and civilians in cases unrelated to the military, as occurred during the waste management protests. There have been no recent measures taken to review the jurisdiction of military courts in Lebanon. Cases involving human rights violations continue to be tried in front of military courts, while judges of military courts are not required to have a law degree or have studied law. Civilians tried in military courts may be accused of anything from rioting to the destruction of property. Minors are also tried by the Military Tribunal. In 2016, 355 children were adjudicated before a military court in Lebanon.⁴⁸ Officers from the military courts are allowed to provide defense to the accused, illustrating a lack of impartiality in court.

Lawyers can be banned from court for up to three months in cases of "serious misconduct" before trial, greatly affecting their ability to provide an adequate defence. This, coupled with the entitlement of the court's president to absolute discretion, preventing lawyers from defending themselves in case a judge tries to expel them from court. The courts abstain from explaining their rulings, which violates the main safeguards of a judge's independence.

Recommendations:

The State Party should:

- Ensure the military court is an integral part of the general judicial system, and that such courts apply due process procedures that are recognized by international law to guarantee a fair trial
- Pass a law adopting restrictive jurisdiction for the military court to appropriate military matters, based on which the court will be allowed to try military officers and military cases only, and transfer to ordinary courts the jurisdiction of trying civilians
- Establish a parliamentary commission to review past trials where allegations of human rights abuses, especially allegations of torture, arbitrary detention and denial of justice, have been

⁴⁸ Human Rights Watch, "It's not the right place for us" p.26 , January 26, 2017.

made to restrict the jurisdiction of military tribunals to appropriate military matters, and to become a party to the International Criminal Court

- Transfer the cases currently pending before military court that involve civilians to general courts where their cases can be settled expeditiously
- Reform the system of nominations of judges limiting all forms of political influence hampering the independence of the judiciary
- Ensure that the Military Tribunal applies due process procedures that are recognized according to international law and are in accordance with the guidelines of the Working Group on Arbitrary Detention, such as the right to a fair trial

Issue 20: *Please explain the compatibility with the Covenant of the differential treatment of foreign nationals with regard to their access to justice and fair trial, namely: (a) the requirement to pay additional sureties for criminal complaints lodged by foreign nationals before the courts; and (b) only providing legal aid for foreign nationals legally resident in Lebanon on the basis of the principle of reciprocity pursuant to article 416 of the Code of Civil Procedure.*

Comments from Civil Society

In theory, the right to justice in Lebanon applies to both Lebanese and foreign nationals. All foreign domestic workers should be able to file a complaint before the public prosecutor's office, the investigating judge, or before the police in cases of flagrante delicto: when a criminal has been caught in the act of committing an offence. However, article 7 of the Lebanese Labour Law excludes domestic workers. Domestic workers may still file complaints or dispute employment contracts in civil court, but the victims' ability to seek and obtain compensation through the civil courts is limited.

Since 2008, there have been several successful Migrant Domestic Worker (MDW) cases under the Labour Arbitration Council. Yet, the cases are limited to disputes relating to the non-payment of wages. Contracts signed by domestic workers before 2010 generally included little to no provisions on rest days, freedom of movement, the right to keep one's own identity documents or the right to private living space in the employer's house. Since 2010, civil courts have sanctioned offenses related to human trafficking, such as sexual violence, personal injury, forced prostitution, or breach of trust and withholding of identity documents. The possibility of invoking articles of the Criminal Code does not, however, eliminate the need to criminalize human trafficking. For such reasons, on August 24th, 2011, parliament promulgated law No. 164, criminalizing the act of trafficking. This promulgation gave renewed hope to domestic workers who want to receive compensation for labor exploitation.

Despite legal changes, there are several domestic obstacles constricting access to justice for domestic workers. The first obstacle is the absence of evidence. Evidence that would prove the conditions under which the contract is executed remains within the confines of the workplace; the employer's home. The employer enjoys privileged access to the contract, while the burden of proof lies with the domestic worker as plaintiff.

The second obstacle is the marginalization of low-skilled migrant workers by various stakeholders, including the judiciary. In fact, in cases involving migrant domestic workers, the prosecutor will often ignore complaints made by migrant domestic workers against alleged offenders accused of violent crimes and sexual harassment.

By only allowing those with legal residency status to file complaints, Syrians are prevented from obtaining a secure place to live. Landlords can often take advantage of Syrians without legal residency permits and make them pay higher rent or ignore their complaints.

Recommendations:The State Party should:

- Guarantee access to interpretation for foreign nationals in a language they understand during investigation and court hearings. Unify all proceeding payments for both Lebanese and foreigners to create equality and distribution
- Promote the development of programs and mechanisms aiming at enhancing to knowledge of foreign nationals lacking legal status about their right to claim, and focusing on the means available to them to reach this right, and to identify the conditions and procedures required. These informative materials need to be disseminates through awareness campaigns.
- Promote dialogue and discussion with the concerned official bodies, especially judges and judicial officers, in order to create an atmosphere of trust and cooperation between them and the vulnerable and marginalized groups that need protection and support including Syrian refugees.
- Unify all proceeding payments for both Lebanese and foreigners to create equality and distribution

j. Rights of the child and forced marriages (arts. 23, 24 and 26)

Issue 26: *In relation to para. 131 of the State party's report (CCPR/C/LBN/3), please report on progress made in registering all non-registered children. Please also elaborate on measures taken to address the complex procedures and onerous documentation requirements, including requiring valid legal residency, for registration of refugee children, to ensure that the birth registration system is accessible to all children born in the State party, including children whose parents are undocumented, and to ensure that they all have the right to acquire a nationality.*

Comments from Civil Society

The near impossibility of obtaining legal status impedes Syrian parents from registering their newborns.⁴⁹ Although the fee for residency permits has been lifted, officers from the Directorate General of General Security implement this decree arbitrarily and will often ask families to pay fines for previous years they remained in Lebanon illegally. A survey conducted by the Norwegian Refugee Council (NRC) in January 2015, found that 92% of Syrian parents were unable to register their newborns with the Mukhtar, the elected village leader, and at the Nofous, the local registry office, due to a lack of legal papers.⁵⁰ Many Mukhtar and Nofous employees will also demand proof of residency to complete registration for refugee newborns,⁵¹ which is not a requirement.

In Lebanon, there is a one-year period after birth when parents can register their newborns, however no such law exists in Syria, and many Syrian refugees are unaware of the Lebanese regulations.⁵² If refugees miss the one-year limit, they must go to court to complete registration, which they can't do without valid residency permits. Some parents ask the Mukhtar to go to the Personal Status Department and complete this step on their behalf, however they are usually charged between \$60 and \$70 for this service, which many cannot afford.⁵³

The inability to present alternative identity documents such as UNHCR certificates or Syrian ID's at security checkpoints along with the criminalization of illegal stay, hinders refugees' ability to complete birth registration.⁵⁴ It also disregards Lebanon's international commitments to the International Covenant on Civil and Political Rights and the Convention on the Rights of the Child (ICCPR) the right of every child to be registered at birth.

Recommendations:

The State Party should:

- Ensure the registration process is in line with international human rights obligations, and accounts for specific protection issues refugees encounter.
- Facilitate access to protection and legal documentation for all Syrians and Palestinians in Lebanon, and broaden the applicability of the \$200 fee waiver to encompass all Syrians who are registered as refugees or recorded after 2015 with the UNHCR. While, also ensuring and monitoring the consistent implementation of the waiver.

⁴⁹ Amnesty International, "Pushed to the edge : Syrian refugees face increased restrictions in Lebanon", 15 June 2015, p.24.

⁵⁰ *Ibid.*, p.23.

⁵¹ *Ibid.*, p. 22.

⁵² IHRC, NRC, "Registering Rights : Syrian refugees and the documentation of births, marriages, and deaths in Jordan", October 2015

⁵³ Meeting with Himaya, 8 June 2017.

⁵⁴ *Ibid.*, p. 23.

k. Participation in public affairs (art. 25)

Issue 28: *With reference to the previous concluding observations (see para. 23), please report on measures taken to bring relevant legislation discriminating against different groups and individuals in regard to access to public office based on their affiliation to a specific denomination into compliance with article 25 of the Covenant. Please also indicate the categories of citizens that are deprived of their right to vote and to be elected.*

Comments from Civil Society

Those deprived of their right to vote are military members, the incarcerated, people with mental and physical disabilities, and Lebanese expats. Lebanon's voting age is 21.

Members of the LGBTQ+ community who have openly stated their sexuality, and don't have social or economic influence are discouraged from participating in public affairs due to stigmas and stereotypes. There are also no protective guidelines or mechanisms in place that allow open LGBTQ+ members to speak up against harassment or file complaints against their harassers if they decide to run for office or campaign.

Recommendations:

The State Party should:

- Adopt women's quota by at least 33% in both the legislative elections and in the cabinet in line with Lebanon's obligations deriving from CEDAW, namely that of Articles 7 and 8 with regards to undertaking all the appropriate measures to eliminate discrimination against women in the political and public life of the country
- Abolish restrictions on the right to vote, namely: security forces should be allowed to vote and naturalised citizens should enjoy the same voting rights as other citizens
- The law should be changed so that voters who reach voting age after the end of the annual registration update but before election day should be allowed to vote
- Ensure the minimum voting age is eighteen