

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	343
Land:	Libanon
Kilde:	Amnesty International
Titel:	A human rights agenda for the elections
Udgivet:	Maj 2009
Optaget på baggrundsmaterialet:	29. juni 2009

Lebanon: A human rights agenda for the elections

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Amnesty International Publications

First published in May 2009 by
Amnesty International Publications
International Secretariat
Peter Benenson House
1 Easton Street
London WC1X 0DW
United Kingdom
www.amnesty.org

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Index: MDE 18/003/2009

Original Language: English

Printed by Amnesty International, International Secretariat, United Kingdom

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INTRODUCTION

Parliamentary elections will take place in Lebanon on 7 June. The elections may raise underlying tensions in the country, but also present clear opportunities for human rights.

The elections will witness a race to govern between the two main coalitions of political parties, known as March 8 and March 14 in reference to the dates on which their supporters held huge rallies in 2005 in the aftermath of the assassination on 14 February 2005 of former Prime Minister Rafic Hariri. March 8, which includes the Shi'a Muslim Hizbullah, the largest party in the coalition, and at least half of the Christian community, is often described, in general terms, as "pro-Syrian". March 14, comprising Sunni Muslims, up to half of the Christian community and the majority of the Druze community, commonly attracts labels such as "anti-Syrian", "pro-Western" or "Saudi Arabian-backed". In May 2008 supporters of the two sides clashed violently in Beirut and elsewhere, leaving some 70 people dead. However, the rival blocs engaged in a dialogue which led to a deal on 21 May known as the Doha Agreement, whereby they agreed to settle disputes peacefully and to desist from using inflammatory language. Later, in the summer of 2008, a government of national unity was formed and a new president appointed by consensus, leading to a period in which Lebanon has enjoyed relative calm.

The last elections in Lebanon took place from 29 May to 19 June 2005, only weeks after the final withdrawal of Syrian troops following a presence of almost 30 years in the country. The withdrawal followed popular outcry against the assassination on 14 February 2005 of former Prime Minister Rafic Hariri, which many blamed on the Syrian authorities, although the latter denied any role in the killing. By contrast, the upcoming elections come at a time of improved relations between Lebanon and Syria, which recently exchanged ambassadors. All in all, there is good reason to hope that the elections will pass off peacefully. It is a hope that senior officials, including President Michel Suleiman, have specifically expressed.

Having said this, the population is tensely divided between the March 8 and March 14 coalitions. Ongoing frictions between the two sides, the ready availability of arms and the backdrop of last year's violent clashes mean that the prospect of a head-to-head election battle with high stakes at play has raised some fears of renewed politically motivated violence. Amnesty International is urging all party leaders and parliamentary candidates to ensure that such fears are not realized by making public their commitment to promoting and respecting human rights before, during and after the elections. In addition, they should refrain from using inflammatory or provocative language.

At the same time, the elections provide an opportunity to put the protection of human rights at the centre of the political agenda and public debate in Lebanon, during and after the election. On the one hand, there are a number of positive aspects which can be built on. Freedom of expression is generally well respected, part of the reason why the country is an attractive venue for regional media activities and conferences and seminars related to human rights and other issues. Human rights activists are mostly able to operate freely, although the ongoing judicial harassment of human rights lawyer Muhamad Mugraby is a notable exception.

On the other hand, several important initiatives aimed at improving respect for human rights

are underway. One of the broadest is the drafting of a Human Rights Action Plan, which the Parliamentary Human Rights Committee has been preparing for more than a year. It will reportedly incorporate a strategy to combat impunity and address other human rights concerns in Lebanon. Others include a draft law to abolish the death penalty, steps to prevent torture, a proposal to establish a parliamentary commission of inquiry into enforced disappearances of the past and measures to improve the conditions of migrant workers. Finally, the establishment of the Special Tribunal for Lebanon, which began operations in the Netherlands on 1 March 2009 with the aim of bringing to justice the perpetrators of the killing of Rafic Hariri and a relatively small number of other attacks, marks an important break from the pattern of impunity of the past in Lebanon, although its limited mandate and jurisdiction means that some see it as an example of selective justice.

In this document, Amnesty International is highlighting five key areas where it believes human rights improvements are required and specific recommendations for how to address the concerns, amounting to a clear agenda for human rights reform. The organization is urging Lebanese political leaders and parliamentary candidates from all political parties to focus their attention on these issues during and after the elections and calls on the next Lebanese government to commit to supporting the agenda for change.

REFORM OF THE JUSTICE SYSTEM

CURRENT SITUATION

■ For many years aspects of the Lebanese justice system have been widely recognized as being insufficiently independent. As long ago as 1997, the UN Human Rights Committee, the body of experts responsible for monitoring implementation of the International Covenant on Civil and Political Rights, which Lebanon ratified in 1975, expressed “concern about the independence and impartiality of [Lebanon’s] judiciary” and noted that “the procedures governing the appointment of judges... were far from satisfactory”. The Committee recommended that Lebanon “review, as a matter of urgency, the procedures governing the appointment of members of the judiciary, with a view to ensuring their full independence.” Twelve years on, Amnesty International is not aware of any such review having taken place.

■ More recently, the UN fact-finding mission into the assassination of Rafic Hariri highlighted the lack of independence of the Lebanese judiciary. The subsequent establishment of the UN International Investigation Commission on 7 April 2005 and the Special Tribunal for Lebanon on 30 May 2007 was a clear acknowledgment that Lebanon’s justice system is not endowed with the necessary political impartiality to investigate such politically motivated crimes.

■ The UN Human Rights Committee has also expressed concern over trials of civilians before military courts. Civilians can be brought before military courts on certain security-related charges, which sometimes have been interpreted widely and used to stifle freedom of expression. The Committee has recommended that the jurisdiction of the military courts be curtailed and that all cases involving civilians or concerning violations of human rights by the military be transferred to ordinary courts. Trials before military courts invariably fall seriously

short of international standards for fair trials, notably in that their judges are predominantly serving military officers who cannot be considered independent and who lack adequate judicial training, and because military court judgments do not provide full explanations for their verdicts.

■ The Judicial Council, which deals with cases of state security and is Lebanon's highest criminal court, is widely perceived to be influenced by political considerations; it fails to provide for a right of appeal, even in death penalty cases, and its hearings are frequently subject to lengthy delays that undermine the right to be tried without undue delay.

RECOMMENDATIONS

■ The procedures governing the appointment of members of the judiciary should be reviewed to ensure their full independence.

■ Civilian crimes should be removed from the jurisdiction of military courts and all cases involving civilians or concerning violations of human rights by the military should be transferred to ordinary courts.

■ The Judicial Council should be abolished.

AN END TO ARBITRARY DETENTION AND TORTURE

CURRENT SITUATION

■ Individuals in Lebanon continue to be arrested and held for long periods without charge, often incommunicado, that is without any contact with the outside world. Two individuals remain imprisoned despite an expert UN body, the Working Group on Arbitrary Detention, declaring in 2007 that their detentions – since 1994 and 1998 respectively – are arbitrary and that their situations need to be remedied. Four other individuals whose detentions the Working Group had also declared that year to be arbitrary were released on 29 April. They had been held without charge or trial since August 2005.

■ In a welcome development, Lebanon ratified the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment on 22 December 2008 and the Lebanese authorities have begun discussions around the possibility of setting up an independent national mechanism to visit detention centres in the country with a view to preventing torture and other ill-treatment there.

■ However, torture and other ill-treatment remain common in Lebanon and appear to be perpetrated by a range of different security forces against detainees accused of offences related to political activities, national security and the drug trade, among other things. Methods of torture and other ill-treatment reported in the last two years include the ballanco (hanging by the wrists tied behind the back), the farouj (being tied to a pole placed behind the knees), electrocution, having a glass bottle forced into the anus and beatings. Torture allegations are not investigated, even when detainees claim in court that they gave false

“confessions” as a result of such duress, and such “confessions” continue to be used as evidence in trials. While Article 401 of the Penal Code forbids physical violence against detainees and provides for punitive measures against officials found responsible for such actions, the law does not criminalize all forms of torture and does not provide for penalties appropriate to the grave nature of the crime.

RECOMMENDATIONS

■ All persons should be brought before an independent judicial authority promptly after arrest, should be notified immediately of the reasons for arrest, and either formally charged or released within a reasonable time. Incommunicado detention should be stopped and prohibited, and detainees should have prompt access to the outside world, including relatives, lawyers and doctors and be provided with all appropriate medical care.

■ Article 401 of the Penal Code should be amended to criminalize all forms of torture, regardless of its objective, and to provide for penalties appropriate to the grave nature of the crime. Torture and other ill-treatment should be unreservedly and publicly condemned and should not be tolerated under any circumstances. All allegations of torture or other ill-treatment should be effectively and promptly investigated by an independent and impartial body, and those responsible for torture or other ill-treatment should be brought to justice in fair trials and without recourse to the death penalty. Having ratified the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, the Lebanese authorities should expedite the establishment of a robust and independent national mechanism which would have access to all places of detention in Lebanon.

AN END TO IMPUNITY FOR GRAVE HUMAN RIGHTS VIOLATIONS

CURRENT SITUATION

■ The establishment of the Special Tribunal for Lebanon, which began operations on 1 March 2009, marks an important break from the pattern of impunity that has so long persisted in Lebanon. It has jurisdiction to investigate the killing of Rafic Hariri and 22 others on 14 February 2005 and to prosecute the alleged perpetrators, as well as over other killings and assassination attempts committed since October 2004 if it finds them to be connected to the assassination of Rafic Hariri and of a similar nature and gravity. However, the determination and considerable resources being devoted to this initiative contrast sharply with the lack of progress in addressing other impunity issues.

■ Hundreds of civilians have been killed in political violence in Lebanon since October 2004, the start of the temporal mandate of the Special Tribunal for Lebanon. Political violence has led to the deaths of: dozens of Syrian nationals who were reportedly killed in reaction to Rafic Hariri's assassination; at least 40 civilians killed during armed clashes at the Nahr al-Bared refugee camp in 2007; and three protesters killed during a peaceful demonstration held on 29 June 2007 between the Nahr al-Bared and Beddaawi refugee camps. However, the

Lebanese authorities remain unable or unwilling to prosecute the perpetrators. In relation to the Nahr al-Bared clashes, for example, Amnesty International raised with the Lebanese authorities its concerns with regard to reports of indiscriminate artillery shelling of civilian areas by the Lebanese army, of the killing of unarmed civilians, of the torture and other ill-treatment of civilians and of suspected combatants and of the looting and arson of homes in the camp after the Lebanese army took control of it. The organization received a response indicating that the Lebanese army had investigated some alleged abuses by soldiers, such as looting and arson, and concluded that they were not at fault. However, to Amnesty International's knowledge, the army did not make public the findings of such inquiries and the authorities failed to order investigations by an impartial body into any of the alleged abuses.

■ Armed conflict in Lebanon during recent decades has given rise to a massive number of grave abuses. During the civil war of 1975-1990, the various parties to the conflict committed thousands of unlawful killings and at least 17,000 enforced disappearances. Hundreds more unlawful killings and enforced disappearances took place in the context of the Syrian military presence from 1975 to 2005. Some 20,000 people in Lebanon, the majority of them civilians, have been killed by Israeli armed forces in the last 30 years; in particular, during attacks in 1978, the Israeli invasion of 1982 and subsequent military occupation of southern Lebanon until 2000, and during the 2006 conflict between Israel and Hizbullah.

■ The Lebanese authorities have taken almost no effective steps towards establishing truth and justice for the victims. On the contrary, they have entrenched impunity by enacting amnesties for perpetrators of human rights abuses of the past. The Lebanese Amnesty Law of 1991, in particular, granted a general amnesty, with a few exceptions, for crimes committed before 28 March 1991. The situation is exacerbated by the fact that neither the Israeli nor Syrian authorities have satisfactorily investigated any cases in which their forces were alleged to have been responsible for gross violations of international human rights or humanitarian law and that the international community has shown no interest in opening inquiries at an international level.

■ With regard to enforced disappearances, the fate of thousands of Lebanese and other nationals who have disappeared in Lebanon since 1975 remains unknown, despite years of campaigning by families of victims and non-governmental organizations. The findings of two Lebanese investigations into enforced disappearances, set up in 2000 and 2001, have never been fully disclosed and no perpetrators have ever been prosecuted. A joint Syrian-Lebanese committee established in 2005 to investigate the fate of more than 600 Lebanese who disappeared apparently while in the custody of Syrian forces has not made public any notable findings. Against this bleak backdrop, it is encouraging to note that the Parliamentary Human Rights Committee has reportedly made a proposal to establish a commission of inquiry into enforced disappearances of the past. The current improved state of diplomatic relations between Lebanon and Syria may also present an opportunity.

■ Several new international treaties have emerged in recent years to complement the arsenal of existing safeguards in international law against gross violations of human rights, such as the Rome Statute of the International Criminal Court and the International Convention for the Protection of All Persons from Enforced Disappearance. Lebanon is, however, yet to become

a state party to these.

RECOMMENDATIONS

■ Thorough, independent investigations of all allegations of political killings and attacks not considered to fall within the mandate of the Special Tribunal for Lebanon should be established and those alleged to be responsible should be brought to justice in fair trials and without recourse to the death penalty. Such investigations should include alleged violations committed in the context of the Nahr al-Bared clashes of 2007.

■ An independent commission of inquiry should be established to investigate allegations of crimes under international law and other serious human rights abuses committed during the civil war period and its aftermath, and to make recommendations for addressing the legacy of past crimes and abuses, taking into account the requirements of the right of victims and their families to truth, justice and reparations. The amnesty laws of 1991 and 2005 should be repealed so that past abuses can be investigated and prosecuted. No one should be considered to be immune from prosecution for grave violations of international human rights and humanitarian law, regardless of position or rank.

■ Lebanon should accede to the Rome Statute of the International Criminal Court and the Agreement on the Privileges and Immunities of the International Criminal Court and ratify the International Convention for the Protection of All Persons from Enforced Disappearance.

AN END TO DISCRIMINATION AND VIOLENCE AGAINST WOMEN AND MARGINALIZED GROUPS

CURRENT SITUATION

■ Women in Lebanon continue to be discriminated against in law and practice. The country's multiple personal status codes contain discriminatory provisions regarding marriage, divorce, parenting and inheritance. Nationality laws dictate that children receive their nationality only from their father and not from their mother. An expert UN body, the Committee on the Elimination of Discrimination against Women, which is responsible for overseeing the implementation of the Convention on the Elimination of All Forms of Discrimination against Women, to which Lebanon is a state party, reiterated last year its concern about these issues.

■ Discriminatory provisions in the Penal Code include Article 562, which allows mitigation of the penalty for perpetrators of violence against women, when it concerns men who kill or injure their wives or close female relatives. For its part, the Committee on the Elimination of Discrimination against Women expressed last year concern about the "persistence of violence against women and girls, including domestic violence, rape and crimes committed in the name of honour and about the lack of a comprehensive approach to address violence against women".

■ The situation of migrant workers in Lebanon remains a cause of concern. In 2005, an expert UN body, the Committee on the Elimination of Racial Discrimination, which is responsible for overseeing the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination, to which Lebanon is a state party, expressed concern “at the situation of migrant workers in practice, in particular domestic workers, who do not benefit fully from the protection of the labour code”.

■ In a positive development, a “unified contract” was introduced by the Lebanese Ministry of Labour earlier this year with the aim of protecting migrant workers through a common set of labour standards. The contract, produced in Arabic and in a language the migrant worker understands, recognizes their rights to decent living conditions, including a place to sleep where their privacy is respected, and to adequate food and clothing. It also states that they are entitled to a weekly day of rest and annual holidays and limits the working day to 10 hours. However, the measure falls short of providing full protection in the law and elsewhere, such as in Jordan, where such contracts have had little positive impact.

■ Women migrant domestic workers find themselves in a particularly difficult situation, since they face multiple discrimination on account of their lack of Lebanese citizenship, their gender and their lower economic and legal status. They are abused and exploited in the workplace. All domestic workers are excluded from the scope of the Labour Law, which would otherwise afford them a range of critical labour protections, but since migrant women make up the majority of the workforce of domestic workers, they are disproportionately affected. At least 45 women migrant domestic workers died from unnatural causes during 2008 in cases in which there was suspicion that the deaths were linked to abuse by employers. However, such cases are frequently not investigated properly and the perpetrators are generally not brought to justice.

■ Other marginalized groups in Lebanon include some 300,000 Palestinian refugees, around 50,000 Iraqi refugees, other refugees and asylum-seekers and an unknown number of trafficked women. The Palestinian refugee population, in particular, remain in a form of limbo. While under international law, Palestinians who fled or were otherwise forcibly displaced from their homes and lands in Mandate Palestine (now Israel and the Israeli-occupied West Bank and Gaza Strip) have the right to return, this right continues to be denied them. In Lebanon, which has hosted them for 60 years, Palestinians continue to suffer from discriminatory laws and practices, notably in their access to employment, healthcare, social security, education and housing. A ministerial decision of 2005 to allow Palestinian refugees to work in many, although not all, of the sectors that had previously been barred to them has failed to significantly change the situation. The UN Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), which provides services and aid to over 4.5 million Palestinian refugees living in the Gaza Strip, the West Bank, Jordan, Lebanon and Syria, stated in 2007 that Lebanon, in comparison with UNRWA’s other areas of operation, has “the highest percentage of Palestine refugees who are living in abject poverty”.

RECOMMENDATIONS

■ Legislation that discriminates against women should be amended. As recommended by the Committee on the Elimination of Discrimination against Women legislation should be urgently

enacted to ensure that violence against women, including domestic violence, is a criminal offence, that victims of violence have access to means of redress and protection and that the perpetrators are prosecuted and punished. In particular, the Penal Code should be amended to ensure that “perpetrators of honour crimes are not exonerated, that marital rape is criminalized and that marriage to the victim does not exempt a sexual offender from punishment”.

- Domestic workers should be included in the scope of the Labour Law. Mechanisms should be established to adequately protect women migrant domestic workers from abuse.

- Discriminatory restrictions in law and practice on the economic and social rights of Palestinian refugees in Lebanon should be removed without delay.

ABOLITION OF THE DEATH PENALTY

CURRENT SITUATION

- With the exception of the executions of three men in January 2004, no death sentences have been carried out in Lebanon since 1998. Hopes have risen that Lebanon may be moving towards putting an end to capital punishment since the Justice Minister submitted to the cabinet in October last year a draft law to abolish the death penalty and replace it with a maximum conviction of life imprisonment with hard labour. However, more than 40 individuals remain in prison in Lebanon under sentence of death and some Lebanese officials continue to support the imposition of the death penalty.

- The steady progress towards worldwide abolition of the death penalty was most recently confirmed in December 2008, when the UN General Assembly adopted by a large majority a second resolution calling for a moratorium on the death penalty with a view to its abolition. Lebanon's abstention on this resolution, as well as the previous one in 2007, was a positive sign that the authorities at least did not oppose the initiative.

RECOMMENDATIONS

- Pending abolition of the death penalty by law, an official moratorium on execution should be established. All sentences to death should be commuted to terms of imprisonment.

- When the UN General Assembly reconsiders the resolution calling for a moratorium on the death penalty in 2010, Lebanon should vote in favour of it.

