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LEBANON: PUNISHING THE OCTOBER PROTEST MOVEMENT

The Lebanese authorities have been relentlessly harassing journalists and activists who were visible during the October protest movement, through the use of defamation laws that fail to meet international standards and unduly restrict people's right to exercise their freedom of expression, Amnesty International said today.

Since 17 October 2019, security and military agencies have summoned and interrogated dozens of individuals, some repeatedly, in relation to social media posts criticizing the authorities, even though none of these agencies are mandated to look into issues of free speech.

Between 17 October 2019 and 24 June 2020, Amnesty International reviewed 75 cases of individuals summoned, including 20 journalists, in relation to charges of defamation, and examined ten of these cases in-depth, including two cases that took place during the country's COVID-19 lockdown. It interviewed the individuals impacted, reviewed case documents, interviewed three lawyers representing the individuals who were summoned, a member of Lebanon's National Human Rights Commission (NHRC), as well as the coordinator of the Lawyers' Committee to Defend Protesters in Lebanon, a group of lawyers defending rights of individuals arrested and detained during protests.

Under international law, Lebanon should respect and protect the right to freedom of expression, even if such expression risks shocking, offending or disturbing. The pattern of charging persons for criminal defamation, compounded by then failing to proceed to trial expeditiously, carries the risk of having a chilling effect that may unduly restrict the exercise of freedom of expression of the person concerned and others, and is a violation of the right to exercise freedom of expression.

Moreover, Amnesty International opposes laws prohibiting insult or disrespect of heads of state or public figures, the military or other public institutions or flags or symbols (such as *lèse majesté* and *desacato* laws), since public officials are expected to accept a higher level of criticism than private individuals. The State Prosecutor's decision¹ of 15 June 2020, calling on security agencies to investigate social media posts deemed offensive to the President, risks further eroding people's right to freely exercise their freedom of expression.

Amnesty International calls on the Lebanese authorities to immediately cease its harassment of activists and journalists associated with the October protest movement and to respect their right to exercise their freedom of speech.

It further urges the Lebanese authorities to amend laws criminalizing defamation, whether of public figures or private individuals, which should be treated as a matter for civil litigation. Furthermore, public officials should not receive state assistance or support in bringing civil actions for defamation. The Lebanese parliament should swiftly amend vague and overly broad laws on defamation, insult, libel, slander, blasphemy and incitement and bring them in line with international standards.

CONTEXT

On 17 October 2019, mass protests swept across Lebanon shortly after the government announced new tax measures. In unprecedented scenes, tens of thousands of peaceful protesters assembled in cities, towns and villages across the country expressing long-standing grievances related to their social and economic rights, in the context of a rapidly deteriorating economic situation.

Despite government attempts to placate the protesters with announced reforms, demonstrations continued. On 29 October, Prime Minister Saad Hariri announced his resignation. Another government led by Hassan Diab was formed and received the parliamentary vote of confidence on 11 February 2020. On 7 March, the Prime Minister officially declared a state of economic collapse and announced that Lebanon would default for the first time in its history, on its nearly US \$90 billion debt. On 15 March, the country entered a state of health emergency in reaction to the COVID-19 pandemic, and street protests fizzled out.

¹ <http://nna-leb.gov.lb/en/show-news/116619/Judge-Oueidat-orders-investigation-into-social-media-posts-insulting-presidency-of-republic>

Between 17 October 2019 and 15 March 2020, Amnesty International documented the military and security forces' use of excessive force against largely peaceful protests, as well as the failure to protect peaceful protesters from armed party supporters. The authorities further arrested hundreds of peaceful protesters across Lebanon in what amounted to arbitrary arrests; including arrests without warrants, severe beatings, blindfolding and so-called "confessions" extracted under duress, in addition to other serious allegations of torture and other ill-treatment which the authorities have failed to duly investigate to this day.² In its submission to the UN Human Rights Council's Universal Periodic Review, taking place November 2020, the National Human Rights Commission noted "that the wave of prosecutions targeting activists and journalists who criticize the government's policies and corruption is threatening the right to freedom of expression and opinion in Lebanon".³

Most of the activists and journalists impacted by this trend are individuals who were visible during the protests; and as such, all the persons interviewed during the course of this research concur that the authorities, by targeting high-profile individuals, were meaning to create a chilling effect on the wider movement. The interviewees further believe that the public mobilization that was happening in reaction to these summons and interrogations, and widely covered in mainstream and online media, was key in leading the overwhelming majority of these complaints to subsequently be dismissed following the interrogations.

DEFAMATION LAWS TO HARASS ACTIVISTS AND JOURNALISTS

Between 25 February and 2 March 2020, Amnesty International examined eight cases in which military and security agencies – none of which are mandated to look into issues relating to freedom of expression – resorted to defamation laws to summon and interrogate five journalists and three activists. Also, the organisation documented a case in which five young men, including three minors, were arrested for a few hours on charges related to freedom of expression and based on defamation laws. In May, it further investigated two new cases of journalists summoned to interrogation, during and despite the national lockdown.

In all these cases, the individuals were summonsed for social media posts criticizing high-ranking officials such as the president, ministers, as well as individuals with political or economic clout, the Lebanese army and security agencies. In all the cases, the individuals were threatened with prosecution and pressured into deleting the social media posts and/or signing illegal pledges to stop criticizing, organizing or protesting. None of the summonses documented by Amnesty led to subsequent prosecution.

Amnesty International reviewed all the posts and articles related to the complaints and found no evidence of incitement to discrimination, hostility or violence, with a real risk of harm, which would otherwise have justified limiting the protection of free speech as per international standards.

In four of these cases, the activists had themselves brought cases for acts committed either by the authorities or party supporters. But at the time of writing, the judiciary had failed to investigate three of these claims and limited the fourth investigation to one interrogation session. The four lawyers interviewed expressed concerns about the apparent selectivity of the judiciary.

Moreover, the growing number of institutions responsible for issuing the summonses and conducting interrogations is also a matter of concern especially since they are not mandated into looking into issues of defamation. Prior to October 2019, the main security agency carrying out the summonses on charges related to online free expression was the Cybercrime Bureau in the Internal Security Forces (ISF), despite its lack of mandate for doing so.

After 17 October however, and according to the Lawyers' Committee, eight different military and security agencies were responsible for issuing the summonses and conducting interrogations: the military intelligence, the military police, the ISF, the ISF Information Branch, the ISF Cybercrime Bureau, the ISF Central Criminal Investigation Bureau, the judiciary police, and the State Security Directorate. According to international law, defamation should be a matter for civil litigation, not criminal. This means that should public officials seek redress on issues relating to defamation, they should do so in a civil court, and should not be receiving any state assistance or support in such action.

In March 2020, both the Cybercrime Bureau of the Internal Security Forces (ISF) and the Military Intelligence Directorate had summoned separately **journalist Khaldoun Jaber** to interrogation, both times on charges related to defamation laws. Both summonses were communicated to Jaber over the phone, without follow-up in writing – an increasingly common

² <https://www.amnesty.org/en/latest/news/2019/11/lebanon-protests-explained/>

³ A copy of the submission is on file with Amnesty.

trend when relating to summonses for defamation, and which represents a violation of the individual's right to be duly informed of the reasons for the summons, therefore a violation of their right to due process.

The first complaint against Jaber was filed in January 2020 by a municipal official, for an article published in July 2019 – before the protests started – in which Jaber had accused the plaintiff of corruption. The prosecution transferred the complaint to the Cybercrime Bureau. On 2 March, Jaber attended the interrogation session.

Jaber told Amnesty that during his two-hour interrogation at the Cybercrime Bureau, the officers had asked him about his sources, if he was paid to defame the plaintiff, and if he held any resentment against the Free Patriotic Movement (FPM).⁴

Jaber was also summoned to attend another interrogation, this time by the Army Intelligence Directorate in the Ablah military base in the Bekaa governorate, and on the very next day, 3 March 2020. Again he received the summons over the phone, and was told that the reason for the summons were social media posts he had published that were deemed to be offensive to the presidency, the president and the Lebanese armed forces, as well as for mobilizing for the protests.

Indeed, in his posts, Jaber had accused the military intelligence of having tortured him when they had arrested him in November 2019.

This case presents one of the most striking illustrations on the judicial selectivity of the prosecution raised repeatedly by journalists, activists and lawyers interviewed by Amnesty. Three months before this summons, in December 2019, Jaber had brought a case against the Lebanese army for acts of torture and enforced disappearance. The prosecution failed to promptly refer the case to a civil judge within 48 hours, as per the domestic anti-torture law. Instead the public prosecution informed Jaber's lawyer that it had referred the case to the military court for investigation, which would be a clear breach of Lebanon's domestic anti-torture law and international agreements which specify that only civil courts should investigate cases of torture.

In Jaber's case, he was instead summoned to interrogation in relation to a defamation case, by the same military institution that he was accusing of torture, two months after he had filed his case.

Amnesty International documented the arrest of Jaber on 13 November 2019, during a peaceful protest near the presidential palace. According to his testimony, a group of around 30 men wearing military intelligence force vests had severely beaten him with sticks, blindfolded him and moved him to an unknown place. He told Amnesty: *"In December, they hit me and with sticks on my back, on my ribs, and on my leg. I was not allowed to contact a lawyer or my family, who did not know where I was. Instead of holding my torturers accountable, they're suing me for telling the truth on them."*

Jaber refused to attend the interrogation at the military base on 3 March and requested that the prosecution include the accusations listed in the summons in his torture case and before a civil court. At the time of publication, the military prosecution had not summoned him for defamation again, and his case on torture remained without further investigation.

On 27 March, the Central Criminal Investigation Bureau interrogated **journalist Dima Sadek** based on a complaint filed by the FPM, accusing her of "publishing fake news" and "inciting sectarianism". She received the summons over the phone.

Sadek told Amnesty that the social media post in question was a widely circulated video showing FPM supporters kicking a man out of their neighbourhood using sectarian-based and violent language. She told Amnesty: *"Instead of punishing the aggressors, the judiciary summoned me"*.

Sadek told Amnesty that the charge of "spreading fake news" wasn't brought up during the interrogation, despite it being one of the two charges mentioned over the phone. The case was dismissed after the interrogation session.

On 24 February, the Cybercrime bureau of the ISF interrogated **activist and journalist Charbel Al-Khoury** following a complaint filed by an economic adviser to the FPM, citing defamation laws for tweets he had posted on 1 February 2020 in which he criticized the government's economic policies. Al-Khoury had already been summoned to the same Bureau in July 2018.

Unlike the first experience documented by Amnesty in 2018, Al-Khoury told the organization that this time the officers at the Bureau had respected his due process rights, questioned him about the tweet and whether he held a personal grudge against the plaintiff. Then, the officer interrogating him ordered him, upon the prosecutor's request, to delete the tweet and sign a silence pledge in exchange for his release. But Al-Khoury refused:

⁴ The FPM political party has the largest parliamentary bloc, and its members include the President.

“In my two previous summonses prior to 17 October, I had signed pledges and deleted posts, because I felt weak, scared, alone. This time, I entered the Cybercrime Bureau accompanied by members of the Lawyers Committee and surrounded by activists. The media was there too. I felt empowered by the movement. 17 October gave me power, my voice is now louder, I am making videos, writing articles, I am making myself heard. I refused to give them the pleasure of silencing us and didn’t sign the pledge.”

Following his refusal, Mount Lebanon’s Public Prosecutor ordered his arrest until a court looked into his case, in violation of Article 107 of the Code of Criminal Procedure which prohibits pre-trial detention for offenses punishable with less than one year in prison. The detention lasted five hours, during which calls for public mobilization were growing, including protesting before the prosecutor’s house. Al-Khoury was released without any further clarification, and the case was closed the same day.

Al-Khoury too, complained about the selectivity of the judiciary in his case. In July 2018, the Cybercrime Bureau had summoned Al-Khoury to investigation relating to a case that gained wide visibility in the public sphere: he had written a post denigrating a religious figure, after which he became the subject of an online hate campaign, receiving dozens of threats of physical and sexual harm. His colleagues at work beat him up and a lawyer announced on social media that he had filed a complaint against Al-Khoury citing laws on blasphemy, incitement to sectarianism and offending religious sentiments.

The Bureau summoned Al-Khoury over the phone. On 19 July 2018, he went to the Cybercrime bureau where he was held under interrogation for 10 hours. He told Amnesty then that he was subjected to verbal abuse, and threats of further prosecution and harassment. The Mount-Lebanon prosecutor requested as a condition for his release, that he delete the post, as well as his Facebook and Twitter accounts and refrain from publishing on social media in general for a period of one month. Following his release, his employer fired him, prompting Al-Khoury to file a labour complaint.

He told Amnesty: *“My boss fired me from my job to punish me for making a joke involving religion. I lost my only [source of] income. I immediately pressed charges citing labour rights, in the hope that it would bring me justice. That was two years ago. My case remains frozen. But it took only three days for me to be summoned to interrogation after the ruling party’s economic adviser filed his defamation case.”*

On 10 January, the ISF arrested activist Jessika Khazrik inside a bank, upon the request of the branch manager, where she was on her third visit to try and withdraw cash from her account. Since November 2019, banks in Lebanon have been restricting depositors’ access to their money in the midst of the monetary crisis. She told Amnesty that she had waited three hours at the bank before they declined her request.

After she threatened to press charges, a bank manager threatened to close her account if she didn’t accept the amount they were offering and leave the bank. After she refused this, the manager pushed her into a separate office and called in the police officers standing guard in front of the bank. While she was in that room, she took a picture and posted on social media details of what was happening to her. The policemen then handcuffed her and took her to the police station. She wasn’t allowed to withdraw her money and the bank closed her account.

At the police station, the lawyer Ayman Raad representing her told Amnesty that Jessika had arrived at the station before the bank had even pressed charges and that the officer had to call the bank requesting that their lawyer press charges. When he did so, the complaint cited defamation laws.

Khazrik was interrogated for four hours approximately, during which, she was accused of insulting the bank’s CEO and the Central Bank governor, she explained to Amnesty – both claims she denied, even though, she said: “I have the right to insult”, but “I don’t even know the name of the CEO”.

She was released after the interrogation, and the bank dropped the charges. The Human Rights Department at the ISF confirmed to Amnesty that the policemen had intervened to arrest Khazrik “to contain the situation and upon the bank manager’s insistence”.

The case of **activist and journalist Nidal Ayoub** is another case in point that indicates the judiciary’s selectiveness, again in relation to freedom of speech. In November 2019, Ayoub was subjected to an online hate campaign, which included accusations of her being a spy for both the Israeli Mossad – a serious accusation that could carry the death penalty as per domestic law - and the American CIA. The video showed her face, explicitly stating her name, and calling on society to take action against her.

On 4 December 2019, she pressed charges citing defamation laws and incitement to violence before the public prosecution, against a ruling party supporter with a large social media following. The person in turn pressed charges

against her, also citing defamation laws, specifically charges of “insulting the president” and “undermining the prestige of the state”, and a blasphemy law, providing as evidence videos of Ayoub chanting protest slogans and her Facebook profile photo featuring a graffiti stating: “God is almighty, but the revolution is almightier.” Ayoub told Amnesty:

“In what capacity is he suing me for blasphemy and defamation of the president? Why would he, a normal citizen, have this authority over me? Yet still the prosecution chose to investigate his complaint fast and first, at least faster than mine, filed at least a month before his, and this, despite the urgency of mine, as it cited potential harm”.

On 7 January, the Cybercrime Bureau summoned Ayoub. She went to the Bureau, surrounded by media and activists, but refused to answer questions and instead, read a statement before the officers in which she raised her concerns about her right to equality before the law. The charges were dropped and the case closed.

TV reporter Adam Chamseddine has been repeatedly summoned to interrogation by different authorities since 17 October. In December 2019, the Public Prosecutor summoned him following charges pressed by the wife of the Speaker of the Parliament, who was featured in a news feature on corruption in the telecommunications sector. The complaint cited defamation laws as well as incitement to sectarianism. He told Amnesty: “*Out of experience, we at the TV station know by now that politicians and their allies use the article on incitement to allow for the public prosecution to summon, interrogate and scold us, before transferring the case to the Publications Court. It’s a trick to please politicians by punishing their critics.*”

Chamseddine attended the interrogation but used his right to remain silent while his lawyer requested the transfer of the case to the Publications Court.

In a previous experience in January 2018, the military prosecution had summoned him to interrogation in relation to a social media post in which he criticized the Lebanese State Security. He was tried and sentenced in absentia to three months in prison by the Military Court; but the sentence was automatically revoked upon his appearance in court. His lawyer then requested the transfer of the case to the Publications Court. The military prosecution did not transfer the case, closing it instead. On this experience, Chamseddine says: “*They want you to know that no matter who you are, you are prone to being tried before the Military court. As a civilian, I say this is bad. As a journalist, it is worse.*”

MINORS INTERROGATED

On 24 November 2019, two 15-year-olds and one 12-year-old boy, as well as two young men, were arrested by a municipal police patrol around 6pm in the village of Hammana, in Mount Lebanon governorate, for ripping a banner featuring the president.

Amnesty reviewed a surveillance camera footage showing the boys climbing a side wall of an FPM office, to rip the banner. The municipal police arrived, arrested and took them to the army intelligence branch, without informing their parents or calling a social worker to accompany the three minors.

The boys spent two to three hours in the Army Intelligence branch without interrogation, until a judge issued an order to deliver the boys to the military police, which, in turn, transferred the boys to the ISF. At around 10 pm, the relatives and the Lawyers’ Committee found out about the arrest. Lawyer Asmarina Aouar headed directly to the police station, where she found that the boys were already being interrogated. She told Amnesty that the youngest, aged 12, had arrived handcuffed to the police station. She stayed with them throughout the interrogation and asked them not to sign pledges or any other documents.

They were released by order of the public prosecution, at 3am following nine hours of detention. A lawyer representing the Union for the Protection of Juveniles in Lebanon Rafic Ghraizi told Amnesty:

“We knew nothing about the whereabouts of the three minors and two young men for six hours, in a small geographic area. That is not OK. The violations of their rights are many: the municipal police arrested them for no reason, the army investigation detained them [despite it not being] within its mandate, the ISF failed to respect the due process in interrogating minors, and the whole due process as detailed in Article 47 of the Code of Criminal Procedures was violated. It was a mess.”

The Hammana case isn’t unique. In a separate instance, on 28 December 2019, the ISF arrested 16 persons, including 12 minors, from the village Kfar Zabad in the Bekaa based on defamation charges, for burning a photo of the president. One of the minors was then aged 14 and the others were between 16 and 17 years old. Some admitted to burning the photo, while others denied being present at the time of the incident. They remained in detention for at least seven hours and were released after being made to sign pledges vowing to never protest again. The case was closed.

SUMMONSES DURING COVID-19 LOCKDOWN

Amnesty International also documented two cases of journalists summoned during and despite the national lockdown in response to the COVID-19 outbreak, which included curfew hours and an official recommendation to resort to remote interrogation for non-urgent matters.

The military intelligence summoned **journalist Ayman Sharrouf** to its branch in Rashaya district, in May 2020. He told Amnesty that he received a call from an army intelligence officer on 7 May, asking him to come to their headquarters, but without disclosing the reasons for the summoning, despite his asking. Sharrouf's lawyer Diala Chehade told Amnesty that she had called the branch to inquire about the charges and whether there was a judicial order for this summons. But a high-ranking officer ended up telling her to stop trying to obtain that information. Sharrouf and his lawyer both suspect the reason for the summons was a series of articles and social media posts in which he was critical of the army.

Sharrouf refused to go. Instead, he visited the public prosecutor's office, along with a group of journalists, activists and human rights defenders, to complain about the involvement of military agencies in issues relating to freedom of speech. He told Amnesty:

"It is obvious to me that the summons was a harassment. I cannot accept it even if I want to, because it's not only about me. They want to silence the October movement and the critics of the political regime. We won't accept it. Security and military agencies should not be used to protect politicians from us."

The case ended there.

Later that same month, also during the lockdown, the Central Criminal Investigation Bureau summoned **journalist Dima Sadek** once again, also over the phone. According to her testimony, the officer refused to disclose the identity of the party pressing charges or what the charges were. She was only given the date and place for the interrogation.

Sadek told Amnesty that the officer interrogating her had informed her four different parties were pressing charges against her in relation to an online video report she had made for Daraj Media about a report accusing the governor of Central Bank of corruption. The parties pressing charges included the Central Bank governor, his brother, his office manager and a commercial bank, and the charges included: "defaming the State's monetary prestige", "defaming Lebanon's banking sector" and "mobilizing the poor against the governor of the Central Bank". The case was not transferred to the Publications Court, despite it being the institution mandated to look into complaints brought against journalists. She was interrogated for six hours and the cases remain open.

LAWS CRIMINALIZING FREE SPEECH

Amnesty International opposes laws prohibiting insult or disrespect of heads of state or public figures, the military or other public institutions or flags or symbols. Lebanon should respect and protect the right to freedom of expression, even if this right extends to expression which shocks, offends and disturbs. The only limit where protected speech stops being so is when it constitutes incitement to discrimination, hostility or violence and where there is a close nexus with a risk of harm.

Many of the cases documented by Amnesty International relate to the targeting of activists involved in the October protest movement. Such targeting of activists is likely to have a chilling effect on the right to freedom of peaceful assembly, as activists may refrain from taking to the streets or organising protests for fear that they will later be targeted.

Lebanese security and judicial authorities rely mainly on two laws to summon activists and journalists to interrogation, the Penal Code and the Military Code.

In the Penal Code (of 1943), Articles 383-384-386-388 punish insult, libel, slander and defamation of a public employee, president, flag, national emblem, an individual or institution with prison time up of to three years and a fine. Also, Article 317 of the penal code on incitement to sectarianism punishes any acts or words, spoken or written, "intended to or resulting in instigating confessional or racial bigotry, or that provoke conflict between the sects" with one year to three years' imprisonment and a fine.

Lebanon ratified the International Covenant on Civil and Political Rights (ICCPR) in 1972 and is thus legally bound to amend local laws to make sure they comply with international standards.

These articles of the penal code are vaguely worded and overly broad, and fail to be in line with international standards. In Comment 34 on the right to freedom of expression, the UN Human Rights Committee expressed concerns regarding laws on such matters as, disrespect for authority, flags and symbols and stressed that they should not prohibit criticism of

institutions, such as the army, and must be crafted with care to ensure that they do not serve, in practice, to stifle freedom of expression.

In the Military Code of Justice, Article 157 reads as follow: “Anyone who humiliates the flag or the national army, or harms its dignity, reputation or morals, or execute any action which would weaken the army's military order or obedience to the heads and their due respect, shall be punished from three months to three years of imprisonment”.

Military courts are exceptional courts. They should not look into issues related to human rights. Under international law, the jurisdiction of these exceptional courts over criminal cases should be limited to trials of military personnel for breaches of military discipline exclusively.

RECOMMENDATIONS

In order to respect and protect people's rights to freedom of expression and fair trial, and to fulfil its binding international agreements, mainly the ICCPR and the Convention on the Rights of the Child (ratified in 1990), Lebanon should:

- Stop the use of laws on defamation, insult, libel, slander, blasphemy and incitement to harass activists and journalists,
- Stop summoning activists and journalists to security and military agencies,
- Stop arresting and summoning minors to security and military agencies for issues related to their rights to freedom of expression, assembly, and association,
- Stop subjecting civilians in general and activists and journalists in particular to military justice and trials in military courts,
- End the use of the illegal silence pledges to intimidate and blackmail activists and journalists,
- Stop the use of pre-trial detention for defamation charges,
- Hold accountable all prosecutors and public officers responsible for the alleged biased selectivity violating the right to equality before the law and equal access to justice,
- Bring national legislation curtailing the right to freedom of expression fully in line with the international standards,
- Honour Lebanon's commitment to respect, protect and fulfil the rights to freedom of expression and assembly,
- Respect commitment to protect Child's Rights,
- Respect Lebanon's commitment to end torture by criminalizing it, holding accountable the perpetrators and providing redress to the victims