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Lebanon: UPR Submission 2020

Introduction

1. Human Rights Watch submits the following information regarding Lebanon's implementation of recommendations it accepted following its second Universal Periodic Review (UPR) in 2015.

2. Lebanon has failed to make progress on a number of recommendations from its prior reviews, including those addressing on-going practices of torture, criminalization of free speech, women's rights, deteriorating conditions for Palestinian and Syrian refugees, improving access to health services, discrimination faced by persons with disabilities across several areas and in particular in access to education, the legal situation of migrant workers and labor law protections for domestic workers, as detailed below. Further, Lebanon's authorities are failing to address a massive economic and political crisis that is endangering citizens' access to vital services, including health care.

Freedom of Assembly and Freedom of Expression

3. Lebanon previously supported recommendations related to the protection of peaceful protesters (see for instance 132.99). [1] However, Lebanese security forces, including members of the army, the internal security forces, and parliament police, have used excessive force on multiple occasions against demonstrators, including in June 2017[2] and following the 17 October 2019 uprising.[3] Security forces beat and arbitrarily arrested protesters, they fired water cannons, teargas canisters, rubber bullets, and in some instances live ammunition against overwhelmingly peaceful protestors.[4] They further failed to protect protesters from violent attacks by counter-demonstrators.

4. Impunity for excessive use of force by security forces is a recurring problem in Lebanon. Investigations into previous

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incidents of excessive, and in some cases lethal, use of force against protesters, if initiated, have not been concluded.^[5] Although former Interior Minister Raya el-Hassan and commander of the Internal Security Forces Major General Imad Othman have stated that they ordered investigations into some incidents of violence, there has not been transparency around the process or any resulting disciplinary measures.

5. Lebanon continues to criminalize peaceful speech, and prosecutions for free speech have increased exponentially since 2015. Authorities detained and charged individuals for speech critical of government officials, especially in relation to corruption allegations, and religious institutions. Lawyers also used criminal defamation laws to file complaints against individuals and publications expressing concern about the country's economic situation.^[6]

6. Security agencies, including the Internal Security Forces' cybercrimes bureau, have summoned activists for interrogation over peaceful speech, in some cases subjecting them to abuse, violating their privacy, detaining them pretrial, and compelling them to sign commitments to cease their criticisms.

7. Lebanon should:

- Ensure that security forces, including the military, abide by the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials in policing demonstrations.
- Investigate and publicly report on its findings with respect to cases of alleged excessive use of force against protesters.
- Repeal the criminal insult and defamation provisions of the Penal Code and replace them with civil laws and penalties.
- Amend Article 317 of the Penal Code so that only statements that amount to advocacy of national, racial, or religious hatred that constitutes incitement to discrimination, hostility, or violence are criminalized. The Rabat Plan of Action should be used as a guide to applying such a law.^[7]

8. While Lebanon fulfilled its pledge to criminalize torture, accountability for torture remains elusive. The 2017 anti-torture law falls short of civil society expectations and Lebanon's obligations under international law. Shortcomings in the new law include a statute of limitations for prosecuting torture, and ongoing jurisdiction of military courts over certain torture cases.^[8]

Torture and Ill-Treatment

9. In October 2016, Lebanon established the National Human Rights Institute (NHRI), which includes a National Preventative Mechanism against Torture (NPM),^[9] and in March 2019 the council of ministers named the NPM's five members.^[10] The

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creation of the anti-torture body brings Lebanon into compliance with its obligation under the Optional Protocol to the Convention Against Torture (OPCAT), which it ratified on December 22, 2008. However, Lebanon has not yet allocated a budget for the NHRI and NPM or ratified related financial decrees to allow them to fulfill their mandates.

10. Despite its support for several recommendations geared towards putting an end to the practice of torture and investigating all allegations of such treatment (see for instance: 132.111, 132.113, 132.114), torture remains prevalent in Lebanon. Authorities have failed to properly investigate allegations of torture and ill-treatment by security services, and justice for torture in detention remains elusive. Authorities failed to investigate serious torture allegations made by Hassan al-Dika prior to his death in custody on May 11, 2019.^[11] Authorities have also not made substantive progress on a torture complaint submitted by Ziad Itani, a well-known actor exonerated of spying for Israel, who described in detail his forced disappearance and torture in detention at the hands of State Security in November 2017.^[12] In July 2017, at least four Syrians died in military custody within days of their arrest, amid evidence of torture. Although local media reported that the military concluded an investigation into those deaths on July 24, the military has not made the results public.^[13]

11. *Lebanon should:*

- Amend the 2017 anti-torture law to comply with Lebanon's obligations under international law, including by criminalizing cruel, inhuman, and degrading treatment or punishment, removing the statute of limitations, and ensuring that the sentences adequately reflect the grave nature of the crime of torture.
- Ensure independent, impartial and transparent investigations into credible allegations of torture.
- Allocate a sufficient budget for both the National Human Rights Institute and the National Preventive Mechanism to operate effectively and ratify related financial decrees.

Military Courts

12. Lebanon continues to try civilians – including minors – in military courts. At least two civilians have appeared before military courts on charges related to their involvement in the nationwide protest movement that began on October 17, 2019.^[14]

13. A 2017 Human Rights Watch investigation documented many due process and international law violations inherent in trying civilians before military courts in Lebanon. Many of the judges are military officers appointed by and subordinate to the

defense minister, undermining the independence of the court. Those who have stood trial in military courts describe incommunicado detention, interrogations without a lawyer, ill-treatment and torture, the use of confessions extracted under torture, decisions issued without an explanation, seemingly arbitrary sentences, and a limited ability to appeal.^[15]

14. *Lebanon should:*

- Amend article 24 of the Code of Military Justice of 1968 to remove civilians and all children from the jurisdiction of the military courts.

Women's Rights

15. During the second UPR cycle, Lebanon received numerous recommendations related to provisions that were discriminatory against women in its personal status laws, nationality law, and Criminal Code (see for instance: 132.32, 132.81, 132.89, 132.127). Despite women's active participation in all aspects of Lebanese society, many of these discriminatory provisions remain. Under the nationality law, children and spouses of Lebanese women do not have the same right to nationality as do children and spouses of Lebanese men.^[16] Personal status issues continue to be governed by 15 separate religious laws, all of which discriminate against women and none of which guarantee basic rights.

16. Lebanon adopted a landmark law on domestic violence in 2014 and in 2017, partially repealed an article that had allowed rapists to escape prosecution by marrying their victim. However, the domestic violence law defines domestic violence too narrowly and fails to criminalize marital rape. Child marriage is still permissible.

17. *Lebanon should:*

- Adopt an optional civil code that would ensure equal rights for all Lebanese who wish to marry under it and ensure that it complies with Lebanon's international human rights obligations;
- Reform the Domestic Violence Law to expand the definition of domestic violence to meet UN guidelines on protection from domestic violence, and develop a national strategy to implement the law;
- Amend the nationality law to allow Lebanese women to pass on their citizenship to their children and husbands;
- Adopt a law raising the age of marriage to 18;
- Lift its reservations to the Convention on the Elimination of All Forms of Discrimination against Women.

Sexual Orientation and Gender Identity

18. During its 2015 UPR, Lebanon received several recommendations urging it to protect the LGBTI population and decriminalize “sexual acts against nature” (132.94, 132.95, 132.95, 132.98). Although in recent years Lebanon’s courts have issued several judgments that rule that homosexuality is not a crime, Article 534 of the penal code, which criminalizes “any sexual intercourse contrary to the order of nature”, continues to be applied to same-sex relations.

19. Transgender women in Lebanon face systemic violence and discrimination in accessing basic services, including education, employment, health care, and housing. Security forces harass, arbitrarily arrest, detain, and in some cases torture transwomen. The absence of non-discrimination legislation, combined with social, economic, and legal marginalization, compromises transgender women’s safety and security. No law or policy ensures that all trans people can benefit from legal gender recognition.

20. Lebanese General Security Forces and Internal Security Forces have interfered with human rights events related to gender and sexuality based on spurious “morality” claims. On September 29, 2018, General Security attempted to shut down a regional conference on LGBT rights. Since then, General Security has prevented at least six of the non-Lebanese conference attendees from re-entering Lebanon. In May 2018, Lebanon’s Internal Security Forces detained an LGBT rights activist and pressured him to cancel some events associated with Beirut Pride. In August 2017, General Security Forces ordered a hotel to cancel a human rights workshop organized by the Arab Foundation for Freedoms and Equality.

21. *Lebanon should:*

- Repeal article 534 of the Lebanese Penal Code, which criminalizes “sexual intercourse contrary to the order of nature.”
- Pass comprehensive anti-discrimination legislation that prohibits discrimination on the grounds of gender identity and sexual orientation and gives victims of discrimination an effective remedy.
- Stop arresting and detaining transgender women on the basis of their gender identity.
- Introduce legislation that allows for name and gender marker change through a simple administrative procedure based on self-declaration.
- Safeguard the rights of LGBT people to free expression, assembly, and association, and ensure that groups can

organize around the protection of rights of people of diverse sexual orientations and gender identities without official interference and intimidation.

- Lift any entry bans based on discriminatory criteria, including entry bans related to activists' participation in NEDWA.

Access to Education, including for Children with Disabilities

22. Lebanon has not yet ratified the Convention on the Rights of Persons with Disabilities despite supporting recommendations to do so during its last UPR (132.17). Although Lebanon's Law 220/2000 grants persons with disabilities the right to education, health, and other basic rights, implementation has been uneven.

23. Children with disabilities are often denied admission to schools because of their disability. For those who manage to enroll, few schools take reasonable steps to provide them with a quality education. Instead, many children with disabilities in Lebanon attend specialized, segregated institutions, which are not mandated to provide an education, or receive no education at all.^[17]

24. Although Lebanon has banned corporal punishment in schools, the ban is often disregarded, largely due to a lack of accountability for abusers.

25. Lebanon's Covid-19 response has overlooked people with disabilities, and children with disabilities cannot access remote education on an equal basis with others. Families of children with disabilities do not have the support and services they need to help them cope with the crisis.^[18]

26. *Lebanon should:*

- Amend Law 220 or pass new legislation that would require schools to take all necessary steps to guarantee quality, inclusive education to all children, including children with disabilities.
- Ratify the Convention on the Rights of Persons with Disabilities.
- Explicitly criminalize corporal punishment in all circumstances and prosecute and appropriately discipline school staff responsible for violence against children in the name of discipline.

Refugee Rights

27. Lebanon's residency policy makes it difficult for the estimated 1.5 million Syrian refugees to obtain legal status,

heightening risks of exploitation and abuse and restricting refugees' freedom of movement, access to work, education, and healthcare. Seventy-eight percent of Syrians in Lebanon now lack legal residency and risk arbitrary arrest and detention for unlawful presence in the country.

28. The Higher Defense Council took several decisions in 2019 that increased pressure on Syrian refugees in Lebanon, including the summary deportation of Syrians who enter Lebanon illegally after 24 April 2019, the demolition of refugee permanent or semi-permanent shelters, and a crackdown on Syrians working without authorization. On August 26, General Security said it deported 2,731 Syrians since May 21, placing them at risk of arbitrary detention and torture.

29. At least 21 Lebanese municipalities have introduced discriminatory restrictions on Syrian refugees that do not apply to Lebanese residents as part of their efforts to combat COVID-19.^[19]

30. There are approximately 174,000 Palestinian refugees living in Lebanon, where they continue to face restrictions, including on their right to work and own property.

31. *Lebanon should:*

- Reverse all Higher Defense Council decisions and related General Security Directives regarding the summary deportation of Syrians and demolition of permanent and semi-permanent structures.
- Honor the principle of non-refoulement by not forcibly returning or rejecting individuals at ports of entry whose lives or freedom would be threatened.
- Waive residency renewal fees for all Syrians and address barriers to residency to ensure that all Syrian refugees, regardless of their UNHCR registration status, can obtain and maintain valid residency.
- Accede to the 1951 Convention Relating to the Status of Refugees and to its additional Protocol.

Migrant Workers' Rights

32. Despite supporting previous recommendations to "improve the legal situation of migrant workers" and to "take into particular consideration the vulnerable situation of migrants in the country" (132.195 and 132.198), Lebanon has failed to fulfil its pledge to improve the legal situation of migrant workers in the country, and it has not extended labor law protections to domestic workers. There are an estimated 250,000 migrant domestic workers in Lebanon, primarily from Sri Lanka, Ethiopia, the Philippines, and Nepal. Migrant domestic workers are excluded from the Labor Code and subject to restrictive

immigration rules based on the *kafala* system, the visa sponsorship system that ties workers to their employers making it difficult for them to leave their employers and putting workers at risk of exploitation and abuse. Common abuses include non-payment or delayed payment of wages, forced confinement to the workplace, a refusal to provide any time off for the worker, forced labor, and verbal and physical abuse. These abuses have been exacerbated by the economic crisis and the Covid-19 lockdown.

33. Lebanon should:

- Amend the labor code to extend legal protection to domestic workers equal to that afforded to other workers and in line with the ILO Domestic Workers Convention.
- Reform the visa sponsorship system so that workers' visas are no longer tied to individual sponsors, and they can terminate employment without sponsor consent.
- Ratify the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Migrant Workers Convention); the ILO Domestic Workers Convention and the 2019 ILO Violence and Harassment Convention.

Right to Health

34. Despite the passage of a solid waste management law in 2018 banning the open burning of waste, municipalities still engage in the practice, posing health risks to residents, especially children and older persons. Open burning is more common in poor areas of the country.^[20] The government has failed to adopt a sustainable solid waste management strategy, relying instead on temporary quick-fixes that do not address serious environmental and health concerns.^[21]

35. Lebanon's health sector is also struggling to provide patients with urgent and necessary life-saving medical care due to the government's failure to reimburse private and public hospitals the funds owed to them. In addition, a dollar shortage has restricted the import of vital medical equipment and led banks to curtail credit lines.^[22] Medical supplies, including gloves and masks, are scarce, compromising Lebanon's ability to deal with the coronavirus outbreak.^[23]

36. Lebanon should:

- Monitor compliance with the solid waste management law and ensure that violators are appropriately penalized;
- Make every effort to use the resources at its disposal to meet its minimum obligations under international law and reverse the erosion of Lebanese peoples' access to adequate health services.

Legacy of Past Conflicts and Wars

37. In a positive step, in November 2018, parliament passed Law 105/2018 which establishes an independent national commission to investigate and determine the fate of more than 17,000 disappeared individuals during the Lebanese Civil War. The Justice Ministry nominated the commission's members in August 2019 by the Ministry of Justice, but Cabinet has not yet approved the nominations.^[24]

38. *Lebanon should:*

- Implement existing legislation and put in place mechanisms to facilitate the work of the Independent National Commission.
- Ratify the United Nations Convention for the Protection of All Persons from Enforced Disappearances.
- Ratify the Rome Statute and align national legislation with the Statute, including by incorporating provisions to cooperate promptly and fully with the International Criminal Court and to investigate and prosecute genocide, crimes against humanity and war crimes before its national courts in accordance with international law.

[1] All paragraph cites are to United Nations General Assembly, Human Rights Council, Report of the Working Group on the Universal Periodic Review: Lebanon, A/HRC/31/5, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/289/55/PDF/G1528955.pdf> (December 2015).

[2] <https://www.hrw.org/news/2017/06/21/lebanon-hold-soldiers-who-beat-protesters-account>

[3] See, for example, <https://www.hrw.org/news/2019/12/20/lebanon-excessive-force-against-protesters>; <https://www.hrw.org/news/2019/11/08/lebanon-protect-protesters-attacks>; <https://www.hrw.org/news/2019/11/08/lebanon-protect-protesters-attacks>; <https://www.hrw.org/news/2019/11/08/lebanon-protect-protesters-attacks>; <https://www.hrw.org/news/2020/01/17/lebanon-police-violence-against-protesters>.

[4] <https://www.hrw.org/news/2015/08/27/lebanon-witnesses-detail-police-violence>

[5] <https://www.hrw.org/news/2017/06/21/lebanon-hold-soldiers-who-beat-protesters-account>

[6] <https://www.hrw.org/news/2019/11/15/lebanon-defamation-laws-used-silence-critics>

[7] <https://www.ohchr.org/EN/Issues/FreedomReligion/Pages/RabatPlanOfAction.aspx>

[8] <https://www.hrw.org/news/2017/11/13/lebanon-new-torture-law-positive-incomplete>

[9] <https://www.hrw.org/news/2016/10/28/lebanon-new-law-step-end-torture>

[10] <https://www.hrw.org/news/2019/03/22/lebanon-anti-torture-body-named>

[11] <https://www.hrw.org/news/2019/09/19/lebanon-judiciary-ignoring-2017-anti-torture-law>

[12] <https://www.hrw.org/news/2019/04/12/lebanon-refer-torture-case-civilian-court>

[13] <https://www.hrw.org/news/2017/07/20/lebanon-deaths-alleged-torture-syrians-army-custody>

[14] <https://www.hrw.org/news/2020/02/05/lebanons-military-courts-have-no-business-trying-civilians>

[15] <https://www.hrw.org/news/2017/01/26/lebanon-civilians-tried-military-courts>

[16] <https://www.hrw.org/news/2018/10/03/lebanon-discriminatory-nationality-law>

[17] <https://www.hrw.org/news/2018/03/22/lebanon-schools-discriminate-against-children-disabilities>

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[19] <https://www.hrw.org/news/2020/04/02/lebanon-refugees-risk-covid-19-response>

[20] <https://www.hrw.org/news/2018/10/18/lebanon-no-action-enforce-new-waste-law>

[21] <https://www.hrw.org/news/2019/06/25/lebanon-beirut-landfill-near-capacity>;
<https://www.hrw.org/news/2020/06/09/lebanon-huge-cost-inaction-trash-crisis>

[22] <https://www.hrw.org/news/2019/12/10/lebanon-hospital-crisis-endangering-health>

[23] <https://www.hrw.org/news/2020/03/24/lebanon-covid-19-worsens-medical-supply-crisis>

[24] <https://www.hrw.org/world-report/2020/country-chapters/lebanon>

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