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Lebanon: Torture and unfair trial of the Dhinniyyah detainees

Summary AI Index: MDE 18/005/2003

This report describes the torture, ill-treatment and unfair trials of political detainees, most of whom have been in detention since late 1999 and early 2000 in connection with their alleged involvement in armed clashes in Dhinniyyah, north Lebanon in December 1999.

These detainees belong to Sunni Muslim opposition groups particularly vulnerable to human rights abuses in Lebanon, and are often labelled by the media and government officials as "terrorists" or affiliates of *al-Qa'ida.* Like other Sunni Islamist groups in the underdeveloped north of Lebanon, and around Tripoli, the Dhinniyah detainees believe they are marginalized by the state and that their interests are not protected by the current confessional system of government in Lebanon.

Following their arrest in a wave of clampdowns in Tripoli, Beirut and the Beqa' on Sunni Islamist activists at the end of 1999 and the first quarter of 2000 by the military intelligence and other security forces in the wake of the Dhinniyyah events, they were held incommunicado for weeks during which time they were reportedly tortured and ill-treated.

Amnesty International is concerned that the Dhinniyyah detainees have reportedly been forced to "confess" under torture; their trials have fallen short of international standards for fair trial; their rights as pre-trial detainees entitled to the presumption of innocence have been violated; and many may face the death penalty. The organization is also concerned at the failure of the authorities to investigate allegations of torture as required by international treaties to which Lebanon is a state party.

Amnesty International has repeatedly expressed its concerns at the persistent reports of the torture and ill-treatment of political detainees in Lebanon, a practise which is particularly prevalent during incommunicado detention at military intelligence detention centres and police stations. Amnesty International has called on the Lebanese government to take all necessary steps to ensure that detainees are well-treated and not subjected to unlawful punishment detrimental to their mental and physical health.

Amnesty International is also calling upon the Lebanese authorities to ensure that independent and impartial investigations into allegations of torture and ill-treatment of detainees are undertaken in line with the UN Convention against Torture or other Cruel, Inhuman or Degrading Treatment and Punishment (CAT) to which Lebanon acceded in 2000.

In this report Amnesty International reiterates its call for the abolition of the death penalty in this and other cases as the ultimate form of cruel, inhuman or degrading punishment.

The report also calls on the Lebanese authorities the ensure that the rights of the Dhinniyyah detainees and other pre-trial prisoners are respected at all times, including those rights already incorporated in Lebanese law as well as all other guarantees provided by international standards and treaties to which Lebanon is a state party. All detainees should be afforded a fair trial in accordance with international standards.

This report summarizes a 24 page document (11,071 words) : Lebanon: Torture and unfair trial of the Dhinniyyah detainees (AI Index: MDE 18/005/2003) issued by Amnesty International in May 2003. Anyone wishing further details or to take action on this issue should consult the full document. An extensive range of our materials on this and other subjects is available at http://www.amnesty.org and Amnesty International news releases can be received by email:

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1. Introduction

1.1 Use of torture and ill-treatment

In recent years Lebanon has taken important steps towards greater promotion and protection of human rights. Already a state party to many important human rights treaties, including the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic Social and Cultural Rights (ICESCR), in 2000 Lebanon acceded to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).

However, despite these positive developments and significant changes in legislation to strengthen human rights safeguards, certain categories of detainees, including the so-called Dhinniyyah group, remain at risk of serious human rights violations including torture[1] and unfair trial.

Categories of political prisoners particularly targeted include members of opposition parties and groups, both from Christian and Sunni Muslim communities, and people held in connection with their alleged "collaboration" or "contact" with Israel. They are normally detained incommunicado for weeks and, in some cases, even their names or places of detention are not made public.

These categories of people, according to research carried out by Amnesty International, are more vulnerable to human rights abuses for their political opposition to the government and/or the Syrian military presence in Lebanon. In pre-trial detention members of Sunni Muslim groups are often labelled by the media and government officials as "terrorists" or affiliates of *al-Qa'ida*, and Christian political activists risk being labelled as "collaborators" with Israel. In both cases such categorization can seriously prejudice the right to fair trial.

Over the years Amnesty International has documented patterns of torture and brought them to the attention of the authorities. In August 2001 Amnesty International documented

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[1] Article 7 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment defines "torture" as "any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions."

the torture of women political detainees and common law offenders including minors. The report included detailed case studies and called on the Lebanese authorities to ensure that all allegations of torture against women be promptly, impartially, independently and thoroughly investigated, in accordance with international treaties. The organization also urged that minor female offenders be protected and held separately from adult offenders while in detention and not be subjected to torture or ill-treatment.

In November 2001 when the Secretary General of Amnesty International raised in a meeting with Lebanon's President Emile Lahoud the issue of torture and ill-treatment of detainees while being held incommunicado, he immediately contacted the relevant authorities instructing them to look into the matter. The President emphasized Lebanon's commitment to the rule of law and the independence of the judiciary, which Amnesty International welcomed.

However, no thorough investigation is known to have been carried out and in a statement dated 11 November 2002 and published by the Lebanese media on 31 December 2002, Public Prosecutor Judge 'Adnan 'Addoum, summarily dismissed Amnesty International's reports of torture and ill-treatment of victims as "baseless and fabricated allegations". Referring to the Dhinniyyah detainees' case he stated that "allegations that the detainees were subjected to ill-treatment while being interrogated by the military police have no basis in truth". He also denied the use of "electric shocks ... especially since the police and the intelligence organs do not possess such equipment ... All the security organs in charge of places of detention carry out their duties with total discipline and adherence to laws [and] should there be any violation or excess, which rarely occur, the competent authorities, especially the judiciary, would put their hand on the issue, without delay, to pursue perpetrators and take measures to ensure that the violation is not repeated".

Amnesty International is concerned at the Lebanese authorities' repeated dismissal of credible allegations of torture and ill-treatment of political detainees including those held in connection with the Dhinniyyah events. Under Lebanon's obligations in accordance with CAT it is required to carry out independent, thorough and prompt investigations into all allegations of torture.

This report documents torture, ill-treatment and unfair trial of detainees who have been in detention mostly since late 1999 and early 2000 in connection with their alleged involvement in the Dhinniyyah armed clashes. The report highlights serious violations of these political prisoners' rights in pre-trial detention, including reports of torture and ill-treatment, extraction of "confessions" under torture or duress, the prosecution's demands for the death penalty against the detainees through invocation of exceptional Law 11 of 1958, and trial before the Justice Council whose procedures fall short of international standards.

1.2 Lebanon's international legal obligations

Despite Lebanon's accession to the CAT, insufficient measures appear to have been taken to protect detainees against torture and ill-treatment or to curtail the use of incommunicado detention which facilitates the practice of torture.

In April 1997 the Human Rights Committee (HRC), after examining Lebanon's second periodic report on its implementation of the ICCPR, expressed concern over "well

substantiated allegations of acts of torture and cruel, inhuman and degrading treatment committed by the State party's police, the Lebanese security forces and non-Lebanese security forces operating within the State party's territory" and recommended that the State party "investigate the credible allegations of instances of ill-treatment and torture which have been brought to the Committee's attention"[2].

The UN Special Rapporteur on Torture has called for a total ban on incommunicado detention. He stated, "[t]orture is most frequently practised during incommunicado detention. Incommunicado detention should be made illegal and persons held incommunicado should be released without delay. Legal provisions should ensure that detainees be given access to legal counsel within 24 hours of detention."[3] Furthermore, the UN Commission on Human Rights has stated that "prolonged incommunicado detention may facilitate the perpetration of torture and can in itself constitute a form of cruel, inhuman or degrading treatment."[4]

Freedom from torture is a non-derogable right under international human rights treaties and Lebanon, as a state party to the CAT, is legally bound, according to Article 2, to "take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction." Furthermore, the CAT stipulates that "[n]o exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture." Amnesty International has welcomed Lebanon's accession to the CAT in 2000. However, the organization is concerned that adequate legislative and practical steps have yet to be taken to implement the provisions of this convention. Independent, prompt and impartial investigations into numerous reports of torture and ill-treatment of detainees (belonging to various political and religious persuasions), have yet to be initiated. These shortcomings have been documented in the reports of UN treaty monitoring bodies.

Amnesty International calls on the authorities to implement the recommendations made by the HRC in 1997 as shown above. All investigations of torture must be carried out in accordance with international human rights treaties and standards, and in particular the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, annexed to UN General Assembly resolution 55/89 of 4 December 2000. Principle 2 of the document provides that:

> *"[s]tates shall ensure that complaints and reports of torture and ill-treatment are promptly and effectively investigated. Even in the absence of an express complaint, an investigation shall be undertaken if there are other indications that torture or ill-treatment might have occurred. The investigators, who shall be*

[2] Concluding observations of the Human Rights Committee : Lebanon. 01/04/97. CCPR/C/79/Add.78.

[3] Report of the Special Rapporteur on torture, UN Doc. E/CN.4/1995/434, para. 926(d).

[4] UN Commission on Human Rights: Resolution 1997/38, para. 20.

independent of the suspected perpetrators and the agency they serve, shall be competent and impartial. They shall have access to, or be empowered to commission investigations by, impartial medical or other experts. The methods used to carry out such investigations shall meet the highest professional standards and the findings shall be made public."

In the same manner the authorities must investigate all cases, including those featured in this report, where "confessions" have allegedly been extracted under torture. As a state party to the CAT Lebanon must, pursuant to Article 15 "ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made".

2. Background

2.1 An overview of political developments in Lebanon since the Ta'if Agreement

Lebanon remains ruled by means of a confessional arrangement, with the President of the Republic hailing from the Maronite Christian Community; the Prime Minister from the Sunni Muslim Community; and the Speaker of Parliament from the Shi'a Muslim Community[5].

Since the Ta'if Agreement of 1989 which brought an end to the civil war, the country has enjoyed significant political stability, but large sections of the population still remain opposed to the post-war arrangement which endorsed the Syrian military presence in Lebanon and left the door open for increased Syrian influence over the political affairs of the country. Following the Ta'if Agreement the Lebanese and Syrian authorities signed a number of agreements, prominent among them was the Treaty of Brotherhood, Cooperation and Coordination (TBCC) concluded in May 1991, and the Defence and Security Pact (DSP) signed in September 1991.

The DSP led to the establishment of a joint Committee for Defence and Security which meets every three months in Syria or Lebanon. Among the objectives of the DSP is ensuring, within the framework of the TBCC, that Lebanon is not a "source of threat" to Syria's security or Syria a source of "nuisance or threat" to Lebanon; and the eradication of any activity or organization in the military, security and political domains that may pose threats to either country.

In practice the DSP has curtailed freedom of expression and association in the country. Political groups and parties not endorsed by the Syrian authorities are not authorized, and their members risk serious human rights violations, including arbitrary detention and torture. These include members of the unauthorized Lebanese Forces Party (LFP), the Free Patriotic Movement (FPM) and members of a number of Sunni political formations opposed to the government and seen as a threat to Syrian interests in Lebanon, especially in the north and the Beqa' where Syria has an overwhelming military and security presence.

[5] There are around 19 recognized religious sects in Lebanon governed by their own personal status laws. Normally allocation of positions in the civil service and other institutions tend to follow a sectarian balance.

Groups opposing the Ta'if Agreement including the FPM led by the former interim Prime Minister General Michel Aoun, were subjected to various human rights violations particularly during the period 1990 to 1995. In recent years the FPM and the LFP have been involved in peaceful opposition activities against the government and Syrian presence in the country, resulting in further human rights violations against their members. These and other opposition groups, including Sunni Islamist groups, also remain proscribed by the government and are therefore denied their right to political participation and freedom of expression.

Since the Ta'if Agreement Syria has maintained tens of thousands of troops with the agreement of the Lebanese government in different parts of the country. Since 2000 and apparently as a result of increasing calls for withdrawal of Syrian troops from Lebanon, thousands of troops have been redeployed since 2000 with many of them returning to Syria. Most recently in February 2003, thousands of troops were redeployed from Syria's strongholds including the Batrun area. However, redeployment apparently did not include troops stationed in the north including Tripoli, 'Akkar and Dhinniyyah, reportedly due to the presence of Islamist groups which are considered to pose threats to security there, following the Dhinniyyah armed clashes of 1999 between the Lebanese army and security forces and Sunni Islamist activists, which are the subject of this report. The Ta'if Agreement had called for the redeployment of all Syrian troops in Lebanon to the Beqa' valley within two years of its signing in 1989.

Over the last 10 years, Lebanon has seen a steady growth of civil society and the emergence of hundreds of groups and associations covering civil, political, social, cultural and economic rights serving various sections of the Lebanese society. Some of these, especially those focusing on women's rights and the death penalty, achieved significant successes in recent years despite mounting difficulties including government restrictions on freedom of association and lack of resources. The rejuvenation of civil society in Lebanon, coupled with increasing attention to human rights both by the state and law enforcement institutions, allowed Amnesty International to establish strong working relations with the emerging human rights community, as well as to consolidate dialogue with the authorities with a view to promotion and protection of human rights. However, the work of many human rights groups, especially those focusing on civil and political rights, remains influenced by the confessional system in the country which may induce such groups to be more responsive to their immediate constituency rather than catering for the needs of all sections of society regardless of religious and political affiliations.

The political leadership of the Sunni Community has historically centred around clans in Tripoli, Beirut and Sidon. However, the period during and after the end of the civil war witnessed the emergence of a number of Sunni groups in the political scene embracing more pronounced religious agenda and with different forms of organization. These groups appear to share a common resentment of the current confessional system of government and what they regard as their marginalization by the ruling Sunni clans. Prominent among these are the Tripoli-based *al-Jama'a al-Islamiyyah* (The Islamic Group), and *Harakat al-Tawhid al-Islami* (The Islamic Unification Movement). However, only *al-Jama'a al-Islamiyyah* has managed

so far to secure seats in parliament. In addition to the presence of Islamist opposition groups, the Sunni Muslims of the north also claim that successive Lebanese governments have failed to heed their calls for social justice, including addressing unequal development and social and economic deprivation. These factors have led in recent years to occasional confrontations, sometimes violent, between sections of the Sunni communities in the north and the authorities. This in turn has resulted in serious human rights violations against Sunni Islamist activists, such as arbitrary detention, torture and unfair trial.

2.2 The Dhinniyyah events

The Dhinniyyah group is a collective of Sunni Islamist activists who are opposed to the present Lebanese government and to the Syrian presence in Lebanon. The group appears to be bonded together by personal and family relations as is evident from the names of the members. The leader of the group was Bassam al-Kinj (also known as Abu-'Ayisha). The nucleus of the group was reportedly established in 1997 by Abu-'Ayisha and a small number of friends. Like other Sunni Islamist groups in the underdeveloped north of Lebanon, and around Tripoli, the Dhinniyyah group believe they are marginalized by the state and that their interests are not protected by the current confessional system of government in Lebanon. In addition they are believed to be linked to other Sunni Islamist groups in the region including *Jam'at al-Tawheed* and *Usbat al-Ansar*, the latter being regarded by the Lebanese authorities as a "terrorist" group.

The Dhinniyyah group initiated a number of activities including annual encampments involving Islamic teaching and training in the use of arms. Three encampments were reportedly organized in Jurud al-Dhinniyyah (a barren and open area of Dhinniyyah) in the spring and summer of 1998, and winter of 1999. The latter was held during the last 10 days of *Ramadan* and according to the Dhinniyyah group was devoted to worship and military training to prepare for the liberation of Lebanese lands occupied by Israel. The Lebanese authorities claim that these encampments were used to plot a military insurrection against the present government.

Many questions remain unanswered as to how the tensions between the Dhinniyyah group and the authorities turned into violence. However, it is believed that one of the factors that triggered the clashes was the large scale presence of the army in the north over the Christmas and New Year festivities "to maintain security" and to pursue suspects allegedly involved in the bombings of Orthodox Churches in the Tripoli area in October and November 1999. The army erected checkpoints and established patrols in the area. An army unit was deployed in the village of 'Asun with the purpose of monitoring the area and searching for "two extremist Islamist activists not affiliated to known Islamist organizations" for their alleged involvement in the Tripoli bombings[6]. It was also reported that the clampdown on this group was ordered by Syria in the wake of mass arrests there in December 1999 of hundreds of Islamist activists mostly belonging to the unauthorized Sunni Islamist group *Hizb al-Tahrir*.

[6] Salim al-Huss, *Lilhaqiqah wa al-Tarikh: Tajarub al-Hukm ma bayn 1988 and 2000* (For Truth and History: Experiences in Government between 1998 and 2000), published by Shirkat al-Matbu'at Liltawzi' wa al-Nashr, Beirut, 2001, page 180.

The clashes took place in three areas: around the building of *al-Hidayah wa al-Islah* (Guidance and Reform) Islamic radio station in 'Asun where members of the group were dug in; in Jurud al-Dhinniyyah; and in the village of Kafr Habbu. The clashes apparently erupted following the failure of efforts by community leaders, the local member of parliament and Islamic groups to end the dispute peacefully. The clashes continued for four days and involved thousands of troops using tanks and artillery. As a result, according to official figures, five civilians, including three women, were killed, in addition to dozens of Dhinniyyah group members and 11 soldiers. Some of the Dhinniyyah group members killed were among 28 people named by the authorities to have been involved in the fighting around the Islamic radio station building and in Jurud al-Dhinniyyah and Kafr Habbu. No independent investigations are known to have been carried out into the killings.

The state has a clear obligation to maintain security and protect the people from acts of violence. In all cases, such measures must be in harmony with fundamental human rights, and not at their expense.

The precarious situation of the Dhinniyyah detainees was further exacerbated by the post 11 September international climate. Under US pressure to show that it was serious about tackling "terrorism" Lebanon introduced new security measures which particularly targeted Sunni Islamist activists. This was apparently a reaction to the US pressure on the authorities to reign in *Hizbullah*, which the US has designated as a "terrorist" group.

The targeting of Sunni Islamist activists was admitted publicly by the Minister of Interior, Elias al-Murr, who spoke in an interview with the Lebanese *As-Safir* newspaper on 28 October 2002, about the security measures taken against Islamists and how he ordered large-scale arbitrary arrests of hundreds of Sunni Muslims without due legal process. He is quoted as saying,

> *"Since the events of Dhinniyyah which took place before 11 September 2001 ... and after 11 September we have as the Ministry of Interior, the Lebanese government and state arrested a large number of Muslims, at times arbitrarily, and at times in numbers that filled trucks. I have personally given orders in certain Lebanese areas for the residents of whole villages to be arrested when receiving a certain complaint. To protect our country and its environs and name abroad we were first carrying out arrests and later sorting out those involved. We have arrested hundreds of Muslims and only a minority were referred to the judiciary. This is horrible ... This is the first time I talked to the media about something which has taken place and about which there was not a word in any newspaper in Lebanon. You may hear about the arrest of some in connection with al-Qa'ida, but the security action which has continued since 11 September and until now has involved the arrest of hundreds of Muslims in silence."*[7]

[7] *As-Safir* Arabic daily, Lebanon, No. 9338, page 5, 28 October 2002.

[4] Under the provisions of the old CCP, which was in force when the Dhinniyyah detainees were arrested, the Prosecution is obliged to ensure that a detainee is brought before a judge within 24 hours or released (Article 102).

3. Arbitrary arrest and violations of legal safeguards in pre-trial detention

The Dhinniyyah detainees were arrested in a wave of clampdowns from January to April 2000 by the military intelligence and other security forces in the wake of the Dhinniyyah events. During the initial wave of arrests scores were rounded up by members of the military intelligence from their homes, places of work and at road-blocks and taken to the Ministry of Defence Detention Centre. Arrests took place apparently without warrant in areas including Tripoli, Beirut and the Beqa'.

Those arrested in the Tripoli area were initially held at al-Qubba detention centre where they were reportedly tortured and ill-treated and then transferred to the Ministry of Defence Detention Centre. They were held there for up to two months without access to their families and lawyers. Families of the detainees became aware of the whereabouts of their relatives only about two months after their arrest and following their transfer to Qasr Nura Prison.

The detainees were not brought promptly before the examining magistrate, not informed of the charges brought against them or of their rights during pre-trial detention as stipulated by the Lebanese law. Article 47 of the New Code of Criminal Procedures[8] (NCCP) provides that the detainee is entitled to communicate with his/her family, employer and a lawyer, rights which must be communicated to the detainee immediately on arrest. Any infringement of these procedures amounts to "curtailment of liberty" and is punishable by Article 367 of the Penal Code. Article 76 of the NCCP requires that the defendant be informed in the first instance of the charges brought against him/her so that s/he may refute them. Failure to inform the defendant of the offence attributed to him/her of the right to have a lawyer renders the investigation null and void.

Amnesty Intentional believes that there were serious violations of the rights of detainees in pre-trial detention including denial of the presumption of innocence as required by the NCCP. Since the arrest and subsequent referral of the Dhinniyyah detainees to the Justice Council the group has been described in media reports, based on information provided by the authorities, as being affiliated to *al-Qa'ida* and "terrorism" in a manner that seriously prejudices the right to fair trial, including their right to the presumption of innocence. For example the Minister of Interior, Elias al-Murr, was quoted as describing the Dhinniyyah detainees as "a group of thugs who attacked the army ... they are criminals" and stated that the measures taken against them come in the context of what he termed "globalization of security"[9].

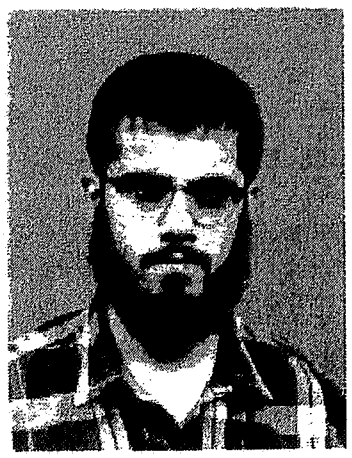
If a detainee is not brought before the examining magistrate within 24 hours, the detention is considered deprivation of personal freedom, an offence punishable under the Penal Code. This law also allowed the detainee the right to communicate with his/her family following appearance before the examining magistrate, and gave the examining magistrate the right to deny the detainee contact with the outside world for up to 10 days, renewable once only.

[9] *An-Nahar* Arabic Daily, Lebanon, 2 March 2003.

4. Indictment of the Dhinniyyah detainees

In July 2000 Mount Lebanon Criminal Court (MLCC) indicted 120 men, dozens of them *in absentia*, for their alleged connection with the Dhinniyyah clashes and charged them on various counts of "attacking internal state security" several months after their arrest. The court divided them into seven categories.

According to the indictment 28 people were charged with taking part in the armed clashes in 'Asun, Kafr Habbu and the Dhinniyyah plains: 'Abd al-Mun'im Za'rur, Khoder Khoder, Bassam al-Kinj, 'Abdallah Haziym, Jihad Khalil, Yusuf Khalil, Khaled al-'Umari, Jamil Hammud, Ahmad al-Yusuf, Rudwan Rustum, Isma'il Isma'il, Mustafa Haydar, 'Amer 'Uthman, Rudwan Bustani, Qasim Khaddur, Talal Kaylakani, Yahya Miqati, 'Ali al-'Abbud, Ahmad al-Darj, 'Azzam Ghanem, Mumtaz Minawi, Sa'id Minawi, 'Ubayda al-Sharif al-Darwish, Muhammad al-Mahmud, Khaled Kharmah, Ahmad Tawfiq al-Rifa'i, 'Abd al-Rahman Jamal, and Salah al-Laziqani. Seven of those, Ahmad al-Yusuf, Khoder Khoder, Bassam al-Kinj, 'Abdallah Haziym, Khaled al-'Umari, Isma'il Isma'il and Mustafa Haydar, were killed by the army and security forces during the clashes.



'Abd al-Mun'im Za'rur © private

The first group of those allegedly involved in the Dhinniyyah events was described as those who took part in the fighting against the army in the villages of 'Asun and Kafr Habbu. They were identified as 'Abd al-Mun'im Za'rur, Ahmad al-Darj, 'Azzam Ghanem and Yahya Miqati, who are now held at Rumieh Prison, and 16 others including the leader of the group, Bassam al-Kinj, who were killed during the clashes.

A second group was identified as those who took part in direct fighting with the army in Jurud al-Dhinniyyah, including Mumtaz Minawi, Sa'id Minawi, Ubaydah al-Sharif al-Darwish, Muhammad al-Mahmud and Khaled Kharmah and three others who were killed during the clashes.

A third group was described by the court as "a support group in the fight against the army in the Dhinniyyah plains" and comprised: Rudwan Jabakhanji, Lu'ey al-Sa'id, 'Umar al-Rifa'i, Khaled al-Mahmud, Bilal al-Mahmud and Khaled Minawi. They, according to the indictment, did not take part in the actual fighting against the army in the Dhinniyyah plains although their presence near the fighting group was meant to obstruct the advance of the army. They were also accused of hiding weapons and other equipment and charged under provisions of the Penal Code and Articles 3, 4, 6 and 7 of Law 11 of 1958.

Rudwan Jabakhanji © private

A fourth group was described by the MLCC as "holding leading positions in the armed gang" and was identified as Khalil 'Akkawi, Gasem Dhaher, 'Ali Hatem, Muhammad Khaled, Fawwaz al-Nabulsi, 'Umar Sawalhi, 'Umar Iy'ali, Bassam Yunis, Ahmad Miqati, Hilal Ja'far, 'Abd al-Karim al-Jazzar, Ihab al-Banna and Zayn al-'Abdin Khalil.

A fifth group was described by the MLCC as having been trained in the use of firearms but not with having taken part in the clashes. They were identified as Bahjat Jubarah, Mazyad Ghayth, Muhiy al-Din 'Umays, Ahmad Abu-Ghosh, Gasim Hawan, Jamal 'Umays, Zuhayr 'Umays, Fadi Ghayth, Wisam 'Umar, Yahya Hatem, 'Abdalla Mur'ib, Fadi Taybah, Fawwaz 'Ubayd, Khaled Maqsud, Yahya al-Usta, Wisam al-Maghrabi, Hasan Nab'a, Muhammad Sanuha, 'Ali 'Abd al-Hadi, Shadi 'Atawi, Shadi Sha'ban and Muhammad al-Hamawi.

The indictment links the Dhinniyyah group to the unauthorized Sunni Islamist group *'Usbat al-Ansar* or League of Followers, which the authorities regard as a "terrorist" organization posing a threat to internal state security. The group is also on the EU and the US lists of "terrorist" organizations. The leader of the group who has been identified by the court as Ahmad 'Abd al-Karim al-Sa'adi (also known as Abu-Muhjin) was charged with providing moral and material support in the form of weapons and personnel to the leaders of the Dhinniyyah group. Ahmad 'Abd al-Karim al-Sa'adi is still being sought by the security forces in connection with the Dhinniyyah events, but has already been sentenced to death *in absentia* by the Military Court on various charges related to a separate case involving attacks on internal state security.

Numerous charges were brought against the above named men under the provisions of Articles 2, 3, 4, 6, and 7 of Law 11 (on terrorism) of 1958, and Articles 303, 304, 335, 547, 459, 201, 217, 218, and 381 of the Penal Code, as follows:

- Attacking internal state security to incite armed rebellion against the authorities with the aim of preventing them from carrying out their duties;
- Setting up armed groups with the object of carrying out crimes against people and property;
- Inciting sectarian and ideological feuds within the Lebanese community;
- Harming the authority and the prestige of the state and its civil, military, economic and financial institutions;
- Violence against the army using unlicensed weapons to prevent it from carrying out its duties, causing the death of 11 army officers and injuring others;

- Killings of civilians, and possession of and transporting unlicensed war weapons.

Members of the Dhinniyyah group are, under Decree 2081 of 5 January 2000, defined as "internal state security" offenders. As such they do not enjoy the legal safeguards accorded by the NCCP to those held in pre-trial detention. According to Article 108 of the NCCP, detainees held on any charge, apart from those related to state security or drugs, shall be held in pre-trial detention for up to six months extendable only once by another six months. Rather than ensuring the rights of detainees enshrined in the NCCP and human rights treaties and standards, the authorities were quick to invoke Law 11 of 1958 which, as emergency legislation, leads to the automatic curtailment of some of the pre-trial rights of detainees. Invoking Law 11 means that detainees may be subject to the death penalty.

Law 11 of 1958 deals, among other things, with offences related to "inciting civil war and sectarian strife" and involvement in "terrorism". Once invoked Law 11 supersedes the Penal Code leading to the suspension of Articles 308-313 and Article 315 of the Penal Code which deal with these offences and stipulates a maximum sentence of life imprisonment for such offences. Law 11 contains eight articles and provides the death penalty for the above offences and curtails the right of the defendants to be tried before an ordinary court. Cases involving offences contained in this law are referred to the Military Court or the Justice Council. The Dhinniyyah detainees are charged under Articles 2, 3, 4, 6, and 7 of this law on offences including "attacks and attempted attacks with the intention of inciting civil war and racial feud" and carrying out "acts of terrorism".

5. Torture and ill-treatment during incommunicado detention

Amnesty International's findings in relation to the Dhinniyyah case show that the detainees apparently were invariably subjected to torture and/or ill-treatment during various stages of their detention, particularly when held incommunicado, apparently because members of the Military Intelligence wanted to obtain as much "evidence" from the detainees as possible to be used in court against them.

Dr Muhammad Khaled © private

One of the detainees, **Dr Muhammad Khaled**, a teacher born in Tripoli in 1962, with dual Lebanese and British nationality, was arrested on 24 January 2000. About three weeks before his arrest he received anonymous phone calls telling him that he was being sought by the security forces. When he was called a second time he decided to report to the security forces with his brother and another relative. There he was told that he had to report to the Ministry of Defence. On arrival at the Ministry of Defence, he was forced into a room where he was ordered to take off all his clothes and then allowed to put some of them back on. All his belongings including his mobile phone and money were taken away. He

was moved to another room where he was blindfolded and handcuffed, his hands bound behind his back, and ordered to stand with his face against the wall with his legs stretched apart. He remained in this position for seven hours without food or drink; he was not allowed to talk and was beaten from time to time. He said he was interrogated for hours while being tortured and that this would be interrupted only when he was unable to talk, at which time he would be given some water. The beatings stopped when his left leg and arm swelled severely. He said he heard the screams of people being interrogated under torture. He stated to Amnesty International:

> *"After about six days of interrogation under torture I was ordered to quickly sign some papers without reading them. I was told that I had no choice but to sign because the other option was torture. When I insisted on reading the documents first they threatened to rape my wife. At the time I was blindfolded and handcuffed and they continued to insult and humiliate me. They told me that my wife was also in detention and that they would let me go if I signed the papers. I was then shown where to sign and I put my signature there. Then mockingly they told me "you are signing your death warrant'."*
>
> *"After that I remained held incommunicado in solitary confinement and was later transferred to a nearby building, apparently to allow the marks of torture, including the swelling, to heal. On 12 February I was taken blindfolded to somewhere which I thought was another place of detention only to be told that I was being brought before the investigating magistrate. I was told that I must not deny or change the statement I signed, otherwise torture would be repeated. The magistrate was accompanied by two plain clothes intelligence officers and a clerk. Later on we were joined by another man who I was told was a lawyer appointed by my brother to defend me. I told the magistrate that I had not read the papers that I signed and he said that was not a problem. He didn't appear to take notice of what I said and continued his interrogation on the basis of the papers presented to him, despite what I told him about my torture."*

Apparently detainees were routinely held for prolonged periods in fixed positions in underground cells at the Ministry of Defence Detention Centre. Some were subjected to electric shocks and the *ballanco* (hanging by the wrists which are tied behind the back) mainly to coerce them to make "confessions".

'Umar Miqati, a mechanic born in Tripoli in 1967 and married with five children, was arrested in April 2000 at Beirut airport then allowed to contact his family straightaway. He stated to Amnesty International delegates that the Dhinniyyah arrests took place in batches and came in the wake of other arrests of Islamists following the church bombings around Tripoli in October and November 1999. He said that following the Dhinniyyah events he noticed that he was under surveillance by the security forces and thought he was being used as "bait" to track down others. He said an official statement was issued by the authorities, and widely publicised in the media, about the arrest of a "senior" member of the Dhinniyyah group who was "attempting to escape" the country. He told Amnesty International:

"I was tortured several times by the ballanco. The officer was aiming to get me to divulge information and to admit that I was part of the Dhinniyyah group and that we were planning a military action. He meant to insult me because of my ideological affiliation. He threatened to arrest my brothers to coerce me to confess what he wanted, and to refer me to Syrian Intelligence. There were also threats to attack my family. During the course of interrogation and torture I fell unconscious twice.

"Finally, as a result of torture and as means to stop it, I signed papers without knowing their content. They claimed that that I have relations with al-Qa'ida.

"On the seventh day I was transferred to the Ministry of Defence Detention Centre in al-Yarze. I was full of fear and was praying to God to be dead before my arrival so they could not touch me.

"At the Ministry of Defence I was tortured and interrogated continually while verbal abuse continued. I was overwhelmed by physical and mental weakness and was vomiting blood and my urine was discoloured. It was impossible to sleep as I was handcuffed, cold and hungry. Twenty-four hours after my arrival I was ordered to take off all my clothes. I refused to undress initially as this was against my religion, but I was forced to undress and forced to remain so for about 15 minutes as a humiliation before I was allowed to dress again."

Former Dhinniyyah detainees also described to Amnesty International denigration of their religious beliefs and being prevented from praying, the use of sexually abusive threats against their female relatives and being forced to listen to screams of other detainees being tortured. The detainees said torture continued for weeks and sometimes beyond the period of interrogation carried out by Military Intelligence. Even after being referred to the investigating magistrate, detainees said they remained blindfolded with their hands cuffed or tied behind their backs. At times they would be suspended in contorted positions and at times kept standing for hours with their faces to the wall. Detainees suffered electric shocks and verbal abuse. They would be interrogated for many hours, normally during the night and deprived of food for days on end. The detainees said they were deprived of sleep, subjected to beatings and repeatedly humiliated, for example being forced to undress apparently to be degraded and humiliated as Islamist activists. Umar Miqati told Amnesty International:

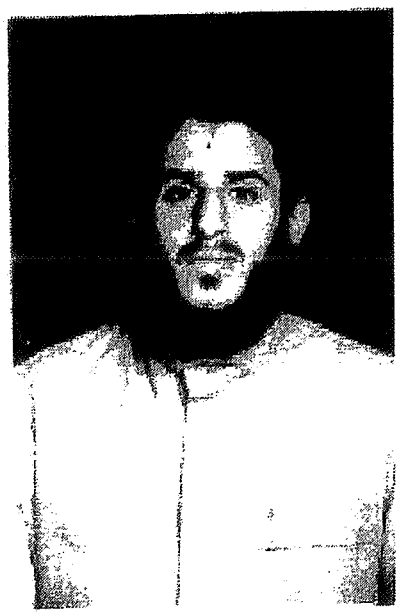
"Throughout seven days of detention I remained blindfolded except for brief periods. I was tortured using suspension by the ballanco and would remain suspended for about an hour and a half. While I was held in that position I was beaten with sticks and cables on my feet under the supervision of a colonel. I remained without food for 24 hours, physically and mentally exhausted. I was deprived of sleep and cut off from the outside world, held blindfolded in a dark room. It was like a grave. Interrogation continued throughout the seven days, interrupted only by beatings and mostly during the night."

At the Ministry of Defence Detention Centre detainees are currently held in cruel and inhuman conditions in overcrowded cells, some are kept handcuffed and blindfolded in the corridors. Underground cells are about three by two metres and there is no natural light. According to one detainee, "[i]t was like a grave: you are confined to one place for prolonged periods and subjected to ill-treatment, not allowed to have access to the toilet except one time during the day [during the night detainees are provided with containers to use instead of being allowed access to toilets] when the detainee will be blindfolded and handcuffed".

Prisoners or detainees are reportedly not allowed access to any media including newspapers, radios or any reading material of a political nature. This is apparently intended to cut the detainees off from the outside world.

Such treatment is part of an ongoing pattern of torture and ill-treatment of detainees being held incommunicado mostly, but not exclusively, at the Ministry of Defence Detention Centre.

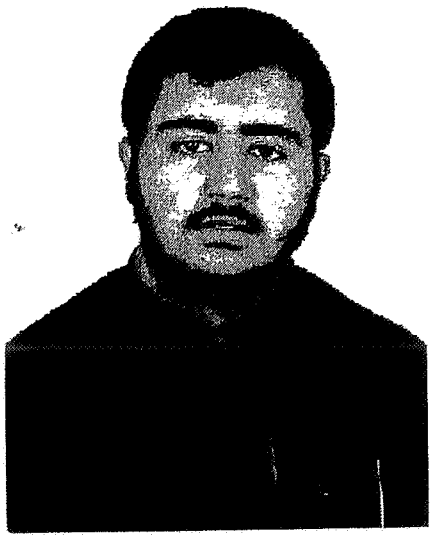
Amnesty International has documented a number of cases of torture involving Dhinniyyah detainees including following arbitrary re-arrest: for example, weeks after their release on bail in June 2002, following a campaign by politicians, members of parliament and the Committee of Relatives of Dhinniyyah Detainees, several men including Fadi Taybah, Ahmed Abu Ghosh, 'Ali al-Hamawi, Mazyad Ghayth, Wissam al-'Umar, and Muhyi al-Din 'Umays were re-arrested by members of Military Intelligence on suspicion of involvement in the bombing of the house of Sergeant George 'Aquri, a guard at Rumieh Prison, which resulted in the death of a woman. All those named above were held incommunicado for two weeks in al-Qubba detention centre in Tripoli, Ba'abda detention centre and the Ministry of Defence Detention Centre in al-Yarze. Other detainees already held in connection with the Dhinniyyah events were also transferred from Rumieh Prison to the Ministry of Defence Detention Centre for interrogation in connection with the bombing incident. All were reportedly held blindfolded and beaten and remained detained incommunicado for weeks despite vehemently denying any involvement in the bombing incident, only to be released after it was established that they were arrested on the basis of false information passed to the Military Intelligence.



Fadi Taybah © private

Fadi Taybah was reportedly tortured and ill-treated at Ba'abda Military Intelligence building where he was taken from al-Suwayqa Military Intelligence building in Tripoli, before being moved to the Ministry of Defence Detention Centre in al-Yarze. He was arrested in Tripoli on 12 August 2002, some two weeks after his release on bail on 29 July. He was moved on the same day from Tripoli to Ba'abda, blindfolded with his

hands cuffed behind his back. He was reportedly severely beaten by cables on his head, hands and stomach and verbally abused. His lawyer quoted him as saying that, during this torture, he thought he recognized one of the perpetrator's voices as a prison guard working in Rumieh Prison. He was repeatedly tortured, including by electric shocks, over three days while being denied food and drink to which he had access only on the third day. Fadi Taybah told his lawyer that on the third day he was given a little food and a cup of water by a guard who saw him bleeding from his hands and feet. After one day's detention at the Ba'abda detention centre building he was moved to another detention centre where he continued to be tortured. Here he said he was beaten with cables on his feet after water was poured on them, during interrogation by people with "non-Lebanese" dialects (apparently Syrian intelligence officers) about the bombing of George Aquri's home. On 14 August Fadi Taybah was moved to the Ministry of Defence Detention Centre, where he was not tortured or otherwise ill-treated. He was held there until 20 August when he was moved to al-Qubba Military Intelligence building in Tripoli and was released without charge later in the afternoon. On 28 August 2002 his lawyer sent a letter of complaint about the torture of his client to President Emile Lahoud but no answer has yet been received.



Khaled Minawi © private

Less than a month after the release of those held in connection with the bombing, **Khaled Minawi**, an Islamist activist aged 18, was arrested and referred to the Military Court on charges of involvement with a "terrorist" organization. He was arrested in October 2002 by the Military Intelligence in a wave of arrests targeting Sunni Islamists allegedly associated to *al-Qa'ida*. Others arrested included Muhammad Ramiz Sultan, a Lebanese/Australian national, and Ihab Husain Dafa', a Saudi Arabian national. Following their arrest the three men were held incommunicado and later charged with establishing "a terrorist organization" with the intent of "carrying out terrorist acts"; "harming the authority and integrity of the Lebanese state"; and "forming with others a nucleus of a multi-national network belonging to *al-Qa'ida* organization". The detainees were reportedly tortured or ill-treated and there were fears that confessions may have been extracted under duress. While held incommunicado for five days at the Ministry of Defence Detention Centre, Khaled Minawi was reported to have been tortured by the *ballanco* and severely beaten in the stomach and face, in addition to being denied food for five days. He had been tortured before, while being held incommunicado in 2000, when he was 16 years old, following his arrest in connection with his alleged involvement in the Dhinniyyah clashes of 1999.

6. Cruel, inhuman and degrading treatment in Qasr Nura and Rumieh Prisons

6.1 Qasr Nura Prison

Following their prolonged incommunicado detention, the Dhinniyyah detainees were transferred to the maximum security Qasr Nura Prison. 'Umar Miqati testified to Amnesty International about his ordeal in Qasr Nura:

> *"We were about 50 men in one room. Space was scarce so we alternated in sleeping. We would be allowed out of the room only once every 24 hours in small groups for about three to five minutes, and to have showers every one or two weeks. Food was meagre and several detainees suffered illnesses (Ihab al-Banna and Sa'id Minawi contracted scabies). After six weeks of incommunicado detention I was allowed access to a lawyer who volunteered to take my case and managed to secure my release on bail of 500,000 Lebanese pounds."*

The detainees were held at Qasr Nura for up to eight months, in small cells cramped with between six to eight prisoners in each cell. They had no access to beds, mattresses or covers and had to sleep with a thin sheet spread on the floor exposing them to the cold weather. Ventilation was poor and there was no access to sun light, fresh air or exercise.

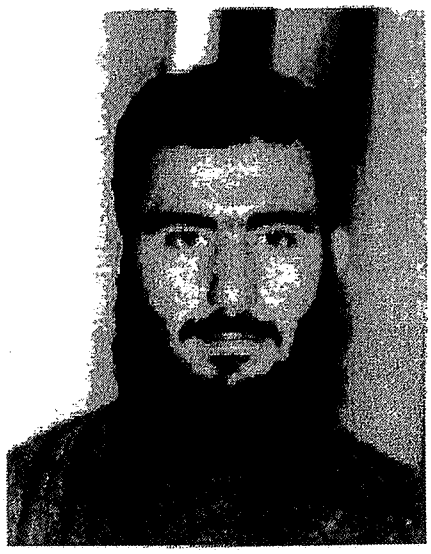
Food and drinking water given to the detainees were reportedly of poor quality and unhygienic. Despite this the families of the detainees were not allowed to provide them with home-made food and were allowed to bring drinking water and clothes only. According to Rule 87 of the UN Standard Minimum Rules for the Treatment of Prisoners "untried prisoners may, if they so desire, have their food procured at their own expense from the outside, either through the administration or through their family or friends".

As a result of these cruel, inhuman and degrading conditions and the lack of facilities for personal hygiene many detainees suffered ill-health, including contracting scabies. The detainees also suffered psychologically as a result of being forced to have their beards shaved and the fact that family visitors were harassed. Detainees would be allowed only ten minutes to talk to their families, during which time physical contact with their young children was forbidden. Before being allowed visits female relatives were body searched and subjected to harassment by female guards.

6.2 Rumieh Prison

After being held for months at Qasr Nura Dhinniyyah detainees were moved to Rumieh Prison, where they continue to suffer ill-treatment. They are routinely blindfolded when taken from Rumieh Prison to the court building, and any attempt to lift the blindfold can lead to punishment. On 26 October 2002, detainee Khaled 'Akkawi, was beaten while being taken to court by his guards when he told them that, as a result of back pain, he could not bend to allow them to apply the blindfold. He reported the incident to the Justice Council and the matter was taken up by the Public Prosecutor who questioned the detainee and the guards involved in his transport and concluded that he had been beaten. No punitive measures appear to have been taken against those involved.

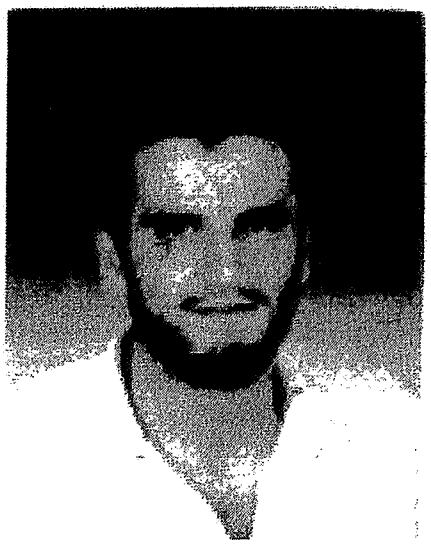
The latest episode in the series of ill-treatment of detainees in Rumieh Prison occurred when 17 detainees boycotted a hearing of their case before the Justice Council on 17 January 2003. The detainees had informed the Justice Council in the previous session that they were planning the boycott in protest against their ill-treatment and to call for their release pending trial. On the day of the hearing the security forces resorted to excessive force using batons and tear gas to force the detainees to end their boycott. According to a statement issued by the Department of Internal Security the detainees used sharp instruments of "their own manufacture" against the officers. Scores of security and military intelligence members reportedly stormed the prison and attacked the detainees while negotiations were underway to persuade them to attend the court hearing. The incident resulted in the injury of more than 10 detainees and five members of the security forces.



Sa'id Minawi © private

The Dhinniyyah detainees were reportedly beaten up and moved to solitary confinement following the incident. In what appears to have been collective punishment other detainees held in Rumieh Prison were also apparently beaten by the security forces for allegedly showing solidarity with the Dhinniyyah detainees. This resulted in the injury of around 10 detainees, some seriously. Two of these, Ihab al-Banna and Sa'id Minawi, were admitted to Dhahr al-Bashiq Hospital for treatment and on their return to prison were held incommunicado for over a week and denied access to their families and lawyers. The officers appear to have resorted to force contrary to Lebanese prison rules and international standards including the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials which states in Principle 15 that "[l]aw enforcement officials, in their relations with persons in custody or detention, shall not use force, except when strictly necessary for the maintenance of security and order within the institution, or when personal safety is threatened."

According to information received by Amnesty International detainees were moved to solitary confinement and denied food for two days while held in cells without access to natural light. The detainees reportedly had their beards, which they keep as a symbol of religious obligation, forcibly shaved off by security officers and their Islamic books and other religious literature were reportedly "desecrated" and trodden on, apparently as a punishment. No independent investigation is known to have been carried out into these events.



'Umar al-Rifa'i © private

Earlier in May 2002 up to 18 detainees staged a three-week hunger strike in protest against their prolonged detention and ill-treatment in prison. The authorities responded by introducing harsh measures against those involved, including prolonged solitary confinement. This attracted wide scale media attention and added fuel to the campaign for the resolution of the Dhinniyyah case. Immediately after the hunger strike the detainees were moved to solitary confinement, denied access to families and lawyers and deprived of fresh air and sunlight. The punitive measures introduced were endorsed by the Public Prosecutor, 'Adnan 'Addoum, who said that the law stipulates placing those involved in hunger strikes into solitary confinement. The hunger strike led to the deterioration of the health of Ahmad al-Darj who had been suffering from an untreated leg injury apparently sustained during the Dhinniyyah clashes; 'Umar al-Rifa'i who suffers from a heart condition; and Ahmad Abu-Ghosh who suffered severe weakness and exhaustion which led to his being unable to stand on his feet. The ill-treatment of those on hunger strike was compounded by the denial of access to washing and clean clothes.

7. Unfair trial before the Justice Council

In 2001 the Dhinniyyah detainees were referred to the Justice Council, a special court to which cases are referred by decree from the Council of Ministers based on a proposal by the Minister of Justice and endorsed by the Judiciary Council. The Justice Council is formed of five judges of the Court of Cassation with the head of the Court of Cassation as its president. The court ensures legal representation for the accused and allows defence lawyers access to case documents; its procedures and hearings are public and attended by the media. Amnesty International delegates have in the past attended Justice Council hearings.

The decision of the Justice Council is final and not subject to appeal. According to Article 356 of the NCCP the Justice Council has jurisdiction to deal with offences related to state security, espionage, and "terrorism" as provided by the Penal Code; all offences contained in Law 11 of 1958; and all offences related to firearms and weapons as provided by the Penal Code and the Military Justice Act. Cases involving such offences which are already being considered by ordinary and military courts may be referred to the Justice Council which has jurisdiction to deal with civilian and military offenders.

The prosecution is represented in the Justice Council by the Public Prosecutor or a person delegated by the Public Prosecutor. While the Justice Council in theory follows the same procedures adopted by ordinary courts as provided by the NCCP, it is in practice the

subject of intervention by the executive and the Public Prosecutor who, according to Article 367 of the NCCP, has the right to call for additional investigations into case(s) under consideration by the Justice Council. It appears that most of the offences considered by the Justice Council have so far been of a political nature mainly involving defendants belonging to political, religious or other groups opposed in one way or the other to the government. As such the choice of referring the cases to the Justice Council and the way they are prosecuted may be based on political considerations rather than legal merit. In what appears to be discrimination by authorities against the Dhinniyyah detainees, their cases were referred to the Justice Council, while cases of people from other political groups with similar offences including state security offences were not. Nor were cases involving high profile political killings during the civil war referred to Justice Council. Article 26 of the ICCPR states "[a]ll persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."

Among the serious flaws of the Justice Council is that it has no jurisdiction over pre-trial detention procedures including interrogation, and this may be one of the reasons why it is unable to investigate claims of torture and other abuses during pre-trial detention. Principle 3 of the Basic Principles on the Independence of the Judiciary[10] states "[the] judiciary shall have jurisdiction over all issues of a judicial nature and shall have exclusive authority to decide whether an issue submitted for its decision is within its competence as defined by law." Principle 5 emphasizes the right to be tried before an ordinary court: "[everyone] shall have the right to be tried by ordinary courts or tribunals using established legal procedures. Tribunals that do not use the duly established procedures of the legal process shall not be created to displace the jurisdiction belonging to the ordinary courts or judicial tribunals."

Many of the Dhinniyyah detainees told Amnesty International about such abuses in pre-trial detention. Among them is defendant, Dr Muhammad Khaled, who states:

> *"I was interrogated twice by the investigating magistrate. The second interrogation took place after I was transferred to Qasr Nura Prison where I told the magistrate that I needed to change my statement and he replied, 'we will look into that'. My demand was not met so I told my lawyer to make a representation to the magistrate to this effect, but to my surprise the lawyer said it was too late and that I could make any changes to my statement when I was brought before the court. Later when I had the opportunity to read the documents after being moved to Rumieh Prison, one month after the interrogation, I realized that my statement had been distorted to the extent that questions I answered with 'no' were changed into 'yes'".*

[10] Adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders held at Milan from 26 August to 6 September 1985 and endorsed by General Assembly resolutions 40/32 of 29 November 1985 and 40/146 of 13 December 1985.

It also appears that the Minister of Justice has discretion over which cases are referred to the Justice Council given the absence in the NCCP of clear criteria for selecting or proposing cases to be tried by the Justice Council. The arbitrariness of selection of cases referred by the Council of Ministers for consideration by the Justice Council is exemplified by the fact that cases involving "collaboration" with Israel which may be categorized as espionage are referred to the Military Court and not the Justice Council which has jurisdiction over such offences. This remains the case even though trials before the Military Court fall even shorter of international standards for fair trial than trials before the Justice Council. So far, it appears that since the end of the civil war the cases brought before the Justice Council have mostly involved high-profile anti-government figures belonging to unauthorized Christian or Sunni Islamist political organizations.

Following the examination in 1997 of the last periodic report by Lebanon on its implementation of the ICCPR, the HRC stated that "some aspects of the State party's legal system do not conform with the provisions of the [ICCPR] ... decisions passed by the Justice Council are not subject to appeal, which is contrary to article 14, paragraph 5, of [the ICCPR]". The HRC expressed "concern about the independence and impartiality of the State party's judiciary" and failure of the State party to "provide citizens with effective remedies and appeal procedures for their grievances". The HRC recommended that "the State party review, as a matter of urgency, the procedures governing the appointment of members of the judiciary, with a view to ensuring their full independence". Six years on, none of these concerns has been addressed by the Lebanese authorities, as far as Amnesty International is aware.

Members of the Justice Council are usually senior members of the Court of Cassation, an arrangement which often limits the time they can devote to the proceedings of the Justice Council. One consequence of this is routine delays of hearings held at the Justice Council which, as is evident in this case, can continue for years in a manner that undermines the right to fair trial. Since the Dhinniyyah case was referred to the Justice Council in early 2001 only six of the dozens of defendants charged have had their cases heard.

The Justice Council sessions have so far been interrupted by a myriad of complaints lodged with the court by individual defendants regarding extraction of "confessions" under torture, repeated incidents of ill-treatment and aspects of unfairness of their trials. For example, during the hearing which took place on 8 June 2002, detainees who had been on hunger strike for weeks and whose health had deteriorated seriously as a result were forced to attend the hearing. It was adjourned shortly after as the hunger strikers were too weak to walk or stand without assistance. This session, like the previous one, was interrupted by further complaints by the detainees, including those on hunger strike, about increasing ill-treatment at Rumieh Prison, allegedly being prevented from praying and the placing of hunger strikers in solitary confinement. One defendant said they were told by a prison official that the measures were introduced according to instructions from the Public Prosecutor, 'Adnan 'Addoum. The Public Prosecutor, who was present at the session, responded by stating that "the Public Prosecutor has not given any directives to the prison authority regarding the detainees and according to regulations any person on hunger strike is moved to solitary confinement". However, the Justice Council did not initiate any inquiry into the allegations made by the

defendants regarding their ill-treatment and the punitive measures taken against hunger strikers.

The Justice Council also failed to order an independent and impartial investigation into allegations made by defendants, including Ihab al-Bana, Yahya Miqati and 'Abd al-Mun'im Za'rur, during previous hearings about their torture and ill-treatment during incommunicado detention and the subsequent extraction of "confessions". During a court session on 30 November 2001 'Abd al-Mun'im Za'rur stated that he had been beaten and coerced to make statements incriminating himself while being interrogated at the Ministry of Defence Detention Centre. He said that taking part in the Dhinniyyah encampment of 1999 was for the purpose of worship and prayers and not for military training as written in the statement attributed to him by the investigating magistrate. He insisted that during the interrogations at the Ministry of Defence he was coerced to confess that he had joined the Dhinniyyah encampment of 1999 with the intention of taking part in military training and to plot against the army. When asked by the Justice Council as to why he had made the same statement before the investigating magistrate he said he thought the investigating magistrate was a member of the Military Intelligence and not a judge.

8. National calls for respect of the Dhinniyyah detainees' rights

The Dhinniyyah case has attracted some attention within the political and religious circles in Lebanon leading to calls for the expediting of the trial of detainees. In June 2002 a delegation comprising the Minister of Education, 'Abd al-Rahim Murad, the Minister of Public Works and Transport, Najib Miqati, and members of parliament met with the Minister of Justice, Samir Jisr, to raise concerns about the prolonged detention without trial of the Dhinniyyah group and their detention conditions. The delegation urged the Minister of Justice to expedite the trial of the detainees, release the detainees pending their trial and improve conditions of detention. The Mufti of the Republic and the spiritual leader of the Sunni Muslim community in Lebanon, Shaykh Muhammad Rashid Qabbani, also demanded a speedy resolution of the Dhinniyyah case, following a meeting in June 2002 with a delegation of Sunni Islamic organizations, scholars from the north, and the Committee of Relatives of the Dhinniyyah Detainees. Shaykh Qabbani said, "I call on all officials in the country for solidarity to end the legacies of the Dhinniyyah events through a just and speedy trial of the detainees and their release pending trial according to laws and regulations". He said any delay in the resolution of the case is "harmful to Lebanon and it's a concern for human rights".

Tripoli MP, Misbah al-Ahdab, in a press conference in Tripoli in December 2001, expressed concern at certain "politically" motivated measures by the judiciary and the preferential treatment of other detainees held on charges related to internal state security. He referred to the release of certain detainees held on internal state security offences, pending trial, in contrast to the continuing detention of those held in connection with the Dhinniyyah clashes contrary to the "constitutional right of those to be treated equally with others", and criticized the delay in the trial of the detainees before the Justice Council. In May 2002 Misbah al-Ahdab raised the issue of the Dhinniyyah detainees with the Speaker of parliament

through whom he directed a question to the government on why the judiciary refuses the release of certain detainees while releasing others. He also asked how long their detention would continue since the Justice Council was not convening regularly to reach a judgment.

Another member of parliament, Ahmad Fitfit, called in a press conference in June 2002 for the release of those Dhinniyyah detainees whom the investigations show had not been directly involved in the Dhinniyyah events. He said there are a number of innocent young men in detention who must be released according to the NCCP, and went on to criticise officials who had levelled uncorroborated accusations against these men including allegations of membership of *al-Qa'ida*.

9. Conclusion and recommendations

Amnesty International has raised in this report a number of concerns related to the Dhinniyyah detainees. Among these concerns are: prolonged incommunicado detention during which the detainees were reportedly tortured and ill-treated; extraction of "confessions" under torture; violations of the rights to the presumption of innocence; trials that fall short of international standards for fair trial; and fears that detainees may face the death penalty. Amnesty International urges the Lebanese authorities to take, as a matter of urgency, measures addressing these concerns, and to ensure that the rights of the Dhinniyyah detainees are respected at all times. The authorities must honour their obligations under the ICCPR and CAT and ensure that the provisions of these treaties are fully implemented in law and practice. Amnesty International is, therefore, calling on the Lebanese authorities to implement the following recommendations:

Torture and ill-treatment

- Order an independent, impartial and effective investigation into all allegations of torture or ill-treatment alleged by the Dhinniyyah detainees. This should include:

  - allegations of torture during incommunicado detention and all other allegations of ill-treatment while in custody, including in Rumieh Prison;

  - such investigations should be carried out according to international standards related to investigation of torture and ill-treatment including the UN Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

  - members of the investigating body should be independent, competent and impartial and have access to independent medical and other expertise;

  - the result of such investigations should be made public. Victims should be provided with reparation and any perpetrators brought to justice in accordance with international standards for fair trials.

- Implement the CAT to which Lebanon acceded in 2000. This should include incorporation of its provisions in Lebanese laws with a view to ensuring that torture is

prohibited legally and in practise. As a further step in this direction the authorities should ratify the Optional Protocol to the CAT.

- Ratify the First Optional Protocol to ICCPR and the declaration under Article 22 of the CAT that individuals can bring complaints about the violations of their rights under this Convention to the relevant UN Committee.

Extraction of confessions under torture

- All allegations of extraction of confessions under torture must be investigated according to international standards. The judicial institutions involved in the trial of the Dhinniyyah detainees must ensure that any confessions believed to have been taken in such a manner are excluded from judicial proceedings, as required by the CAT.

Incommunicado detention

- Ensure that detainees are not subjected to prolonged incommunicado detention as this facilitates torture and constitutes a form of cruel, inhuman and degrading treatment. Detainees must be held in recognizable places of detention in humane conditions.

Safeguards in pre-trial detention

- Introduce measures, as a matter of urgency, to ensure that the rights of the Dhinniyyah detainees and other pre-trial prisoners are respected at all times. This should include application of all the rights already incorporated in Lebanese law and implementation of all other guarantees provided by international standards and treaties to which Lebanon is a state party.

Treatment of untried prisoners

- Ensure that the Dhinniyyah detainees' right to the presumption of innocence is respected and that they are humanely treated as untried prisoners. The authorities should implement all relevant international treaties and standards including the ICCPR, Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, and the Standard Minimum Rules for the Treatment of Prisoners. These include the requirement for segregation of untried prisoners from convicted prisoners and that they are treated in a manner appropriate to their status as unconvicted detainees.

- Provide proper medical care including treatment at specialist institutions or civil hospitals to sick detainees, whose calls for such treatment supported by medical reports, have so far been unheeded. As required by international standards all such medical care should be provided free of charge.

The right to fair trial

- Ensure that the Dhinniyyah detainees are given a fair trial in accordance with international treaties and standards. As a pre-requisite the detainees should be tried before a competent and impartial court established by law without any interference of

political or any other nature with the judges having exclusive power to decide on matters of judicial nature.

- Ensure that the defendants are treated on an equal footing in court vis-à-vis the state, in accordance with the principle of "equality of arms". The judicial authorities must in particular take measures to prevent the prosecution from disclosing information about the case outside the court which could prejudice the detainees' right to receive a fair trial.
- Take, as matter of urgency, measures to expedite the trials of the Dhinniyyah detainees with a view to finalizing the trials without undue delay as required by international standards.

Solitary confinement and cruel, inhuman or degrading treatment

- Take immediate steps to ensure that the Dhinniyyah detainees are well-treated and not subjected to any form of cruel, inhuman or degrading treatment. The authorities must in particular stop repeated confinement of detainees in dark cells or subjection to any other unlawful punishment prejudicial to their mental and physical health.

Death penalty

- Under no circumstance should any of the Dhinniyyah detainees be given the death penalty, which Amnesty International opposes in all cases as the ultimate form of torture and cruel, inhuman or degrading punishment. To ensure that the death penalty is not applied in this case the authorities must take immediate measures to allow the detainees to be tried before an ordinary court and not before special courts or according to exceptional laws such as Law 11 of 1958.
- As a step towards the abolition of the death penalty the authorities should declare a moratorium on executions and consider the ratification of the Second Optional Protocol to the ICCPR.