

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	677
Land:	Libanon
Kilde:	The Lebanese Center for Human Rights
Titel:	Universal Periodic Review Stakeholder Submission Lebanon Cycle 3
Udgivet:	juli 2020
Optaget på baggrundsmaterialet:	3. maj 2021



The Lebanese Center for Human Rights (CLDH)

cldh-lebanon.org

info@cldh-lebanon.org

Centre Libanais des Droits Humains

Immeuble Bakhos, 7ième étage

Rue Mar Youssef, Dora, Beyrouth Liban

Universal Periodic Review Stakeholder Submission

Lebanon - Cycle 3

July 2020

1- Executive Summary:

During the reporting period, Lebanon slid into the abyss of failed governance. The unparalleled economic crisis combined with the spread of the pandemic brought the country to its knees. Gross incompetence and corruption accelerated the freefall. The Lebanese Centre for Human Rights notes that day by day, the Lebanese State is becoming exponentially authoritarian as illustrated in this report:

- The Lebanese Government's use of force towards protesters and failure to protect protestors is a clear violation of its obligation to protect and uphold freedom of expression.
- Lebanon flouts international law by violating non-refoulement (and thus Article 3 of CAT) and by discriminating against refugees in violation of Article 26 of the ICCPR.
- Lebanon violates the right to be free from slavery and adopts discriminatory practices discrimination by allowing forced labor and abuse against migrant workers.
- Lebanon fails to protect the liberty and security of its citizens in clear violation of its international obligations under treaties it has ratified.
- Lack of independence of the judiciary in Lebanon hinders the due process of law in clear violation of international treaties.
- The Lebanese government has failed to implement an efficient legal framework in relation to missing persons, flouting thereby its own commitment.



- Lebanese authorities continue to systematically torture individuals in places of detention or arrest in clear violation of Lebanon's obligations under international law.

2- Methodology:

All information provided in the report is first-hand information based on discussions with victims of HR violations. Full reports can be accessed at <http://www.rightsobserver.org/publication>.

CLDH was not consulted by the Lebanese Government in the preparation of the information submitted to the Human Rights council (resolution 5/1 - June 2007).

3- Progress on the UPR 2nd Cycle:

a- Freedom of expression, arbitrary arrest and detention and the right to life, liberty and security of protesters

The Lebanese Government's use of force and failure to protect protestors is a clear violation of its obligation to protect and uphold freedom of expression and its support to the recommendation 132.99 by Costa Rica during Cycle 2 . Since October 17th 2019, the Lebanese people have been protesting against government corruption and the grave economic crisis in Lebanon. Several times, the Lebanese security forces, Internal Security Forces (ISF) and the Lebanese Armed Forces (LAF), at a higher rate, used excessive force to disperse protests, including the spreading of huge amounts of expired tear gas, beating of demonstrators, or inappropriate use of rubber bullets firing at close distance.ⁱ On October 26th, at least two protesters suffered gunshot wounds in Tripoli, after the army opened fire against them.ⁱⁱ It was also clear that security forces beat protesters harshly causing them serious injuries.ⁱⁱⁱ In January 2020, a teenager lost an eye during a protest after being struck by a rubber bullet during clashes between security forces and protesters in Beirut.^{iv}

Lebanon is arbitrarily arresting and detaining protesters as retribution for protesting, contravening their obligations under international law including Article 9 of the UDHR and Article 9 of the ICCPR. According to CLDH's data, 226 protesters were arrested from October 17 until the end of November 2019. Instead of holding corrupt actors and violators accountable during this period, the government was investigating activists and journalists, hindering their freedom of expression and monitoring their influence on the greater Lebanese



audience As per Human Rights Watch report posted on March 12, 2020, at least 29 people were called by security agencies for interrogation concerning free speech charges between October 17, 2019 and March 6, 2020.^v The report recorded that some activists were called for investigation after politicians and other prominent people filed criminal insult and defamation lawsuits against them.^{vi}

b- Promotion and protection of the rights of refugees

Lebanon flouts international law by violating non-refoulement (and thus Article 3 of CAT) and by discriminating against refugees in violation of Article 26 of the ICCPR.. Lebanon continues to host 1.5 million Syrian refugees. The State also hosts an additional 18,500 refugees from Ethiopia, Iraq, Sudan and other countries, as well as more than 200,000 Palestinian refugees under UNRWA's mandate.^{vii} In April 2019, the Supreme Defense Council allowed the forcible deportation of Syrians by handing them over to the Syrian authorities. Between May and August, 2,447 refugees have been deported to Syria. The deportation orders are executed summarily by The General Security and incompetent authorities without verification of the risks upon return and without granting the refugees the right of defense and the right to resort to the judiciary. The practice of refoulement represents a flagrant violation of the Constitution, Lebanese laws and international conventions, namely Article 3 of CAT.

In addition, the Higher Defense Council had announced it would start demolishing "semi-permanent structures" built by Syrian refugees in informal camps. Lebanese authorities have taken measures that hindered Syrian refugees' access to services and aid. According to UNHCR, about 73% of refugees did not have legal residency. The lack of legal residency permit means reduced mobility, risk of arrest and harassment, limited access to services and employment.

Lebanon also hosts hundreds of thousands of long-term Palestinian refugees, who remained subject to discriminatory laws excluding them from owning or inheriting property, accessing public education and health services, and working in at least 36 professions. In early June 2019, the Lebanese government announced that Palestinian refugees will need to obtain a work permit in order to work and do business in Lebanon.^{viii} This discrimination is in violation of Article 26 of the ICCPR and also in contravention Lebanon's support of recommendation 84.10 put forward by Finland in Lebanon's first UPR cycle to, "take further measures to improve the working possibilities and working conditions of the Palestinian refugees."^{ix}



c- Promotion and protection of the rights of migrants

Lebanon violates the right to be free from slavery and discrimination by allowing forced labor and abuse against migrant workers. During its UPR Cycle 2, Lebanon supported Austria's recommendation 132.198 to improve the legal situation of migrant workers and Bangladesh's recommendation 132.199 to protect and promote the rights of foreign workers.^x During that same cycle, Lebanon also supported recommendation 132.143 by Australia to support and protect victims of forced labor and Senegal's recommendation 132.205 to improve the situation of foreign workers including vulnerable female domestic workers.^{xi} Yet migrant domestic workers, mostly women, still suffer from exploitative working conditions at the hands of their employers. They also face discriminatory practices under the *kafala* system, which restricted their rights to freedom of movement and communication, education and health, including sexual and reproductive health. CLDH routinely deals with serious human rights abuses, as beneficiaries face long working hours; deprivation of rest days; denial of pay or imposed deductions; deprivation of food and proper accommodation; verbal physical and sexual abuse; denial of access to health care. Migrant workers are also victims of forced abortions which is a violation of CEDAW and CAT. The routine discrimination that these workers face under the kafala system of "modern slavery" is a violation of Article 26 of the ICCPR and a violation of Article 4 of the UDHR.

d- Access to justice

Lebanon fails to protect the liberty and security of its citizens in clear violation of its international obligations under treaties it has ratified. Generally, individuals have only a limited knowledge of their rights and, too often, the police do not inform them. Detainees are routinely held incommunicado exceeding the 48-hour prescribed period.^{xii} They frequently report being denied access to their lawyer and to a medical examination.^{xiii}

All files are kept as a hard copy version, which makes file loss a very frequent problem. A file loss could potentially mean a longer and an unknown period of detention. Moreover, a simple misspelling in the name of the arrested individual may delay the whole process. One of CLDH's lawyers encountered a case where the individual's hearing was delayed for around two years because his file was lost. It was later on found behind a cabinet.

The principle that all people are equal under the law is not fully respected. Vulnerable groups face more problems than Lebanese citizens as they are most of the time subject to neglect,



abuse, and discrimination. For instance, Syrian refugees face complex judicial processes relating to residencies and work permits, without being always aware of them.^{xiv} Furthermore, financial issues come into play: individuals may have trouble paying the lawyers' fees and accessing courtrooms when they do not own a car. According to CLDH's data overview conducted between August 2016 until August 2019, 36% of prisoners are Lebanese. The remaining 64% are non-Lebanese including refugees (Iraqi, Palestinian, Syrian, Sudanese).

e- Independence of the judiciary

Lack of independence of the judiciary in Lebanon hinders the due process of law in clear violation of international treaties.

Lebanon has two special courts, the Military Tribunal and the Judicial Council. Neither of the two is independent from the Executive, nor do they offer sufficient judicial guarantees to protect the rights of the accused, in violation of the preamble of the Lebanese constitution. Lebanon has proved unwilling to change this system, as it did not support recommendation 132.149 put forth by Hungary during Cycle 2 which called for a limiting of the "Military Tribunal's jurisdiction to members of the armed forces and enhance the independence of the judiciary."^{xv}

The Permanent Military Court is under the jurisdiction of the Ministry of Defense and deals with cases related to crimes of espionage or treason as well as any conflict involving military personnel. In this respect, it has jurisdiction to try civilians, including children, but do not afford them the same procedural protections that civilian courts do. Children tried by military courts are not afforded the protections that the Ministry of Social Affairs typically provides to children in custody. Military investigators routinely torture suspects, and detain them before trial without access to family members or legal representation. Under the justification of "national security," they can keep part or all of the investigation and trial confidential, in contravention of Article 8 of the UDHR and ICCPR Art. 14.^{xvi}

f- Missing and enforced disappearances

An estimated 17,000 Lebanese citizens forcibly disappeared during the civil war of 1975-90.^{xvii} Even nowadays, individuals are still being kidnapped and detained *incommunicado* by Lebanese authority forces, in contradiction with the UN legal framework that firmly prohibits this kind of abduction.



Lebanon has never ratified the ICPPED, even though it had accepted France's recommendation 132.16 in this way during the UPR Cycle 2.^{xviii}

Parliament has passed the Law 105 on Missing and Forcibly Disappeared Persons on November 13, 2018. The text recognizes the family members' right to know (Art.2), to get informed (Art.3) and to be entitled to compensation (Art.5).

Although the ratification of the Law 105 represented a milestone for families, the Lebanese government failed to implement the text in an efficient way, flouting thereby its own commitment. Indeed, the Council of Ministers has not, to this date, allocated the required appropriations to fund its budget and provisions. Moreover, the Justice Ministry designated 10 commissioners in August 2019, but their nomination is still not approved by the Cabinet, as stipulated in Article 10 of the new law. This list of names was not published, which is also a source of concern for civil society, raising doubts about the independence and competence of these expected members

Besides, Law 105 remains vague on several practical points. For instance, the way in which the Commission will coordinate with the judicial or executive bodies remains unclear. In particular, it will have to face the issue that these institutions are used to prosecute criminal investigations and not research for the disappeared. Even if the text mentions the creation of a subcommittee in charge of bodies exhumation, the concrete procedure and actors at stake remain unclear. The law provides the Commission's obligation to release critical information to the victims' families, but the latter don't know yet how they will be involved in the process. Finally, the law fails to establish punitive provisions if stakeholders refuse to collaborate or withhold information.

In July 2017, the Lebanese army planned a raid on al-Nur and al-Qariya camps in Aarsal, arresting and detaining more than 350 persons, including children and elderly men. The army forces did not state any reason for their arrests, did not provide information on where the detainees had been kept. Furthermore, for some of them, the army did not inform the families of their deaths.

g- Torture in Lebanon

Lebanese authorities continue to systematically torture individuals in places of detention or arrest in clear violation of Lebanon's obligations under international law. The practice of torture in Lebanon is still generalized and considered as a valid method of investigation and



punishment. Out of the 92 testimonies of interviewees collected by CLDH during its latest report in 2019, 67 including 38 men and 29 women reported to CLDH having been tortured or seriously ill treated in police stations or detention facilities.^{xix}

On the other hand, The Committee of Lawyers to Defend Protesters filed complaints last December on behalf of 17 protesters for the crime of torture against members of the security and military apparatus.

The continued use of torture by official lead to the death of a detained 44-year-old Lebanese man, Hassan Toufic Dika, on 11 May. During one CLDH conference on October 2019, Toufic Dika, Father of Hassan stated to the representative of the Ministry of Justice that he saw his son enter prison accused of drug-related charges in November 2018 and Seven months later he was handed his dead body.

4- Recommendations:

1. Holding perpetrators of violence against protesters accountable must be an urgent priority of the government
2. Authorities should not arbitrarily arrest individuals as a retribution for protesting and end the practice of long or indefinite pre-trial detention
3. Lebanon should adopt the Optional Protocol to the ICCPR on the abolition of the death penalty.
4. Lebanon should put an end to impunity, and guarantee an effective and impartial application of the legislation and court rulings through the formal judicial system.
5. The Lebanese Parliament should ratify the 1951 Refugee Convention and incorporate it into domestic laws.
6. The General Security should stop deporting refugees in accordance with the international non-refoulement principle.
7. Abolish discriminatory laws and regulations against Palestinians in Lebanon.
8. Include migrant domestic workers in the labor law and abolish the Kafala System.
9. Improve legal aid in order to guarantee equal access to justice.
10. Judicial systems should be automated to ease the communication between departments and sectors.



11. Lebanon should urgently reform the military court system and refrain from using it to bypass due process of law.
12. Ensure that judges deem inadmissible all confessions and evidence obtained under torture and hold authors of torture accountable.
13. Reform the criminal justice system by ensuring more independent mechanisms for the nomination of judges, and an efficient state-led legal aid system.
14. Lebanese authorities should ensure that not any individual is currently detained *incommunicado*.
15. The National Commission for the Missing and Forcibly Disappeared should receive a proper budget in order to start its work without delay.
16. The search for disappeared persons should be conducted whilst respecting the dignity of victims and their families.
17. Follow and implement the guidelines provided by the ICPED and monitored by the UN Committee on Enforced Disappearances (CED).
18. Operationalize the NPM and ensure it is able to effectively carry out its mandate in full compliance with OPCAT and without interference of any kind.

i Human Rights Watch, *Lebanon: Excessive Force Against Protestors*, 19 December 2020 -

<https://www.hrw.org/news/2019/12/20/lebanon-excessive-force-against-protesters>.

ii Amnesty International, *Lebanon: Investigate excessive use of force including use of live ammunition to disperse protests* (Press release, 1 November 2019). <https://www.amnesty.org/en/latest/news/2019/11/lebanon-investigate-excessive-use-of-force-including-use-of-live-ammunition-to-disperse-protests/>.

iii Ibid.

iv NAJJAR Farah, *Lebanon: A lost eye, the price paid for demanding your rights*, 21 January, 2020 <https://www.aljazeera.com/news/2020/01/wounded-lebanese-protesters-undeterred-weekend-violence-200121094522932.html>.

v Human Rights Watch, *Lebanon: Spate of Free Speech Prosecutions*, 12 March, 2020 <https://www.hrw.org/news/2020/03/12/lebanon-spate-free-speech-prosecutions>.

vi Ibid.

vii UNHCR – <http://reporting.unhcr.org/node/2520>.

viii Palestinian refugees in Lebanon protest discriminatory labor law, 31/07/2019 <https://peoplesdispatch.org/2019/07/31/palestinian-refugees-in-lebanon-protest-discriminatory-labor-law>.

ix A/HRC/16/18 - Para. 84.

x A/HRC/31/5/Add.1 - Para. 132.

xi Id.

xii The Legal Agenda, *Pre-Trial Detention in Lebanon: Prior to Conviction or a Necessary Measure?*, 2018.

xiii Report on CLDH project of Legal Aid to Vulnerable Individuals, CLDH, 2018.



^{xiv} CLDH's blog, "*Refugees Rights Defenders Initiative*" - *Post governmental and diplomatic visits*, October, 9, 2019 - <http://www.rightsobserver.org/blog/%E2%80%9Crefugees-rights-defenders-initiative%E2%80%9D-post-governmental-and-diplomatic-visits>

^{xv} A/HRC/31/5/Add.1 - Para. 132.

^{xvi} Centre libanais des droits humains (CLDH), *The Lebanese Commission for Human Rights and Its National Preventive Mechanism: Report for its Initial Activities on Human Rights in Lebanon and Best Practices for NHRIs*, 2018.

^{xvii} Commission on Missing Persons (ICMP), *The Long Wait: Lebanon's Missing Persons*, Bojana Djokanovic, March 9, 2016 – <https://www.icmp.int/news/the-long-wait-lebanons-missing-persons/>.

^{xviii} A/HRC/31/5/Add.1 - Para. 132.

^{xix} CLDH, *Lebanon Torture Situation after Legislating law 65/2017*, 14 October 2019 – http://www.rightsobserver.org/files/2019_-_Lebanon_Torture_Situation_after_Legislating_law_651.pdf.
