



# **Universal Periodic Review: Lebanon**

**Third Cycle**

**Submission to the Stakeholders' Summary**

**Alkarama Foundation, 8 July 2020**

Contents:

<b>1.</b>	<b>BACKGROUND AND FRAMEWORK .....</b>	<b>3</b>
1.1	SCOPE OF INTERNATIONAL OBLIGATIONS .....	3
1.2	CONSTITUTIONAL AND LEGISLATIVE FRAMEWORK .....	4
1.3	INSTITUTIONAL AND HUMAN RIGHTS INFRASTRUCTURE.....	4
<b>2.</b>	<b>COOPERATION WITH HUMAN RIGHTS MECHANISMS .....</b>	<b>5</b>
<b>3.</b>	<b>IMPLEMENTATION OF INTERNATIONAL HUMAN RIGHTS OBLIGATIONS .....</b>	<b>5</b>
3.1	RIGHT TO LIFE, LIBERTY AND SECURITY OF THE PERSON .....	5
3.1.1.	<i>The death penalty.....</i>	5
3.1.2.	<i>Arbitrary detention.....</i>	6
3.1.3.	<i>Torture: systematic practice .....</i>	6
3.2.	RIGHT TO A FAIR TRIAL .....	7
3.2.1.	<i>Compliance with the guarantees of a fair trial.....</i>	7
3.2.2.	<i>Special courts .....</i>	8

1. The present contribution falls within the framework of the third cycle of the Universal Periodic Review (UPR) pertaining to the general human rights situation in Lebanon and takes into account the recommendations made in November 2015.

## **1. Background and framework**

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2. The Conflict in Syria has marked Lebanon and keeps paralyzing its politics. A number of 969'641 registered Syrian refugees<sup>1</sup> and its impacts on the local economy as well as ambivalent sentiments towards the neighbouring regime keep fuelling sectarian tensions.

3. In October 2016 a new president was elected thus breaking a 29 month long deadlock. The election was possible after long negotiations and agreements of understanding between the numerous sectarian parties. Despite the newly elected president, the political turmoil was far from being over. During an official visit to the Kingdom of Saudi Arabia in November 2017, the Lebanese Prime Minister surprisingly declared his resignation on a Saudi funded television channel. This led to further political paralysis and a governmental crisis in Lebanon. A solution was found preventing the loss of face of any of the involved parties. As a result governmental affairs could continue normally and elections, overdue since 2013, were held in May 2018.

4. Similarly, 2017 saw a significant escalation of internal violence taking different forms: inner-Palestinian tensions erupted into heavy armed clashes in the Ain al-Helweh refugee camp close to Saïda. The Lebanese authorities have no control over the camp and security is maintained by a joint-Palestinian faction. After several suicide bomb attacks on Lebanese soldiers and civilians in the villages of Aarsal and al-Qaa, the Lebanese Army raided two unofficial refugee camps in a move against alleged members of the Islamic State. With the participation of Hezbollah and the Syrian Army control was restored over the Lebanese-Syrian border.

5. In October 2019 the Lebanese people took to the streets to protest against the introduction of new taxes on the use of WhatsApp. The felt economic pressure united people from all religious denominations in their demand for the resignation of the entire government. The massive manifestation of popular discontent caused the Prime Minister to hand in his resignation at the end of October. However, demonstrations continued and clashed increasingly with the official security forces as well as with supporters of different parties leading to some casualties. The political deadlock and the shut-down of a great number of Lebanese infrastructure further aggravated the tensions and the economic pressure.

6. Finally, since the previous UPR, the consequences of the Syrian conflict were especially evident with the presence of a great number of refugees and the armed involvement Hezbollah in the Syrian civil war. Moreover, Lebanese authorities and Hezbollah continue to deport Syrian refugees.

### **1.1 Scope of international obligations**

7. The International Covenant on Civil and Political Rights (ICCPR), as well as the Convention against Torture (CAT) and its Optional Protocol have all been ratified.

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<sup>1</sup> The number is registered with the UNHCR and dates back to 2018. The Lebanese Government estimates a presence of 1.5 million Syrian refugees. <http://reporting.unhcr.org/node/2520> (accessed 4.3.2020)

8. In the previous UPR Session Lebanon accepted recommendations to ratify the Convention Against Enforced Disappearance (ICCPED)<sup>2</sup> but has merely noted the recommendations to accede to the second Optional Protocol to the ICCPR.<sup>3</sup> Furthermore Lebanon is not part of the first Optional Protocol to the ICCPR and did not make a declaration under article 22 of the CAT.

9. **Recommendations:**

a) Ratify the ICCPED, the first Optional Protocol as well as the Second Protocol of the ICCPR and make a declaration under Article 22 of the CAT.

## 1.2 Constitutional and legislative framework

10. Following some recommendations of the previous UPR session<sup>4</sup>, Lebanon introduced Law No. 65/2017 (hereafter Anti-Torture Law) in 2017. However, the new law fails to meet the promised international standards in defining and separately criminalizing torture as established by article 1 of the CAT, and does not criminalize other acts of cruel, inhuman or degrading treatment.<sup>5</sup>

11. **Recommendation:**

a) Introduce in the internal legislation an absolute prohibition of torture based on the definition of torture in accordance with article 1 of the CAT.

b) Criminalize all forms of cruel, inhuman and degrading treatment in compliance with article 16 of the CAT.

## 1.3 Institutional and human rights infrastructure

12. Following numerous recommendations from previous UPR sessions, Lebanon created the legal basis for a National Prevention Mechanism (NPM) as required by the Optional Protocol to the CAT (OPCAT)<sup>6</sup> as well as an independent national human rights institution (NHRI).<sup>7</sup> In 2019 the two Institutions were inaugurated and its members appointed by the Lebanese parliament.

13. The newly created NHRI encompasses the "Committee for the Prevention of Torture" acting as the NPM. Five members are appointed to the NPM and the equal number to the NHRI. Although appointed and inaugurated, the two institutions are not yet operational. No budget has been adopted

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<sup>2</sup> Recommendations n. 132.15 (Uruguay) (Argentina) (Sierra Leone); n. 132.16 (France).

<sup>3</sup> Recommendations n. 132.2 (Montenegro) (Poland) (Portugal) (Australia); n. 132.3 (Italy); n. 132.4 (Namibia).

<sup>4</sup> Recommendations n. 132.34 (Belgium); n. 132.36 (Hungary).

<sup>5</sup> As opposed to the principle of absolute prohibition of torture in the CAT, the new law contains restrictive elements to the definition of torture, which do not comply with the said convention. In fact, the definition of torture is limited to acts performed "during the investigation, preliminary investigation, judicial investigation, trials and executions of sentences. This provision creates a loophole in which acts of torture committed during the arrest and before the preliminary investigation would not fall within the scope of this legislation.

Furthermore, the criminalisation of cruel, inhuman or degrading treatment or punishment as defined in article 16 of the CAT was withdrawn during the deliberations in parliament, further reducing the scope of the bill.

<sup>6</sup> Recommendations n. 132.56 (United Kingdom of Great Britain and Northern Ireland); n. 132.57 (Costa Rica); n. 132.58 (Denmark); n. 132.59 (Czech Republic); n. 132.60 (Canada).

<sup>7</sup> Recommendations n. 132.42 (Sierra Leone); n. 132.43 (Hungary); n. 132.44 (Namibia); n. 132.45 (Bahrain); n. 132.47 (Spain); n. 132.47 (Australia); n. 132.48 (Sudan); n. 132.49 (Egypt); n. 132.50 (Indonesia); n. 132.51 (Nigeria); n. 132.52 (Oman); n. 132.53 (Portugal); n. 132.54 (Jordan).

yet and the institutions lack essential infrastructures, including a website. The Global Alliance of National Human Rights Institutions (GANHRI) has yet not graded the Lebanese NHRI.

14. After constant local and international pressure, Lebanon introduced Law n° 105 for the Missing and Forcibly Disappeared in November 2018. The law creates a commission to investigate cases of forced disappearance, which, according to the law, is composed of ten members with the competence to investigate cases and exhume suspected mass burial sites. However, the commission still needs to be established and receive an adequate budget to function.

15. **Recommendations:**

a) Provide the NHRI and NPM with an adequate budget and ensure its conformity with the Paris Principles;

b) Establish the National Commission of Inquiry on the fate of victims of enforced disappearance and provide it with an adequate budget and sufficient investigative powers.

## **2. Cooperation with human rights mechanisms**

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16. Lebanon issued a standing invitation to all special procedures on March 17, 2011, declaring itself prepared to receive a visit. However, such visits to the country remain extremely rare, in spite of requests formulated by mandate holders. Alkarama highlights especially the requested visit of the Working Group on Enforced and Involuntary Disappearance (WGEID) outstanding since November 27, 2015.<sup>8</sup>

17. Alkarama also notes that the cooperation with the Working Group on Arbitrary Detention (WGAD) is to improve. For instance, in a case submitted by Alkarama, Lebanon failed to meet the response deadline for an inquiry of the WGAD. Furthermore, the opinions issued by the Working group have not been adopted and, as a consequence, the victim did not receive any compensation for the abuses he had been subjected to.<sup>9</sup>

18. **Recommendations:**

a) Fully cooperate with all of the Special Procedures and positively answer their request to visit the country.

b) Implement opinions of the WGAD.

## **3. Implementation of international human rights obligations**

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### **3.1 Right to life, liberty and security of the person**

#### *3.1.1. The death penalty*

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<sup>8</sup> Amongst others, the Special Rapporteur on torture's and the Special Rapporteur on freedom of expression's request remain unanswered.

<sup>9</sup> Opinion of the Working Group on Arbitrary Detention No. 53/2017.

19. Article 302 of the Penal Code establishes the legal basis for the death penalty in Lebanon, and by virtue of a 2001 amendment, its application is left to the discretion of the judge on a case by case basis and in extreme cases. Despite a *de facto* moratorium on the death penalty, in place since 2004, five new death sentences have been imposed in 2018 alone.<sup>10</sup>

20. A 2011 amendment to Law No. 463/2002 created a legal status for those who have been sentenced to death without being executed.<sup>11</sup> However, during the last UPR, Lebanon barely noted recommendations on the abolition of the death penalty.<sup>12</sup>

#### 21. **Recommendation:**

a) Establish a *de jure* moratorium on the death penalty in order to completely abolish it.

##### *3.1.2. Arbitrary detention*

22. The issue of arbitrary detention remains a major cause of concern, both in terms of the excessive use of pre-trial detention and the systematic violation of procedural guarantees. In the previous UPR session Lebanon merely noted a recommendation to end arbitrary detention.<sup>13</sup>

23. In 2017, roughly 65% of prisoners were held in pre-trial detention<sup>14</sup>, the duration of which can be especially disproportionate and unnecessary<sup>15</sup>. Article 108 of the CCP authorises unlimited periods of pre-trial detention, most notably for alleged "offenses against state security" and "crimes of terrorism".

24. Arbitrary detention is further caused by the fact that procedural guarantees are often violated leading to unfair trials.

#### 25. **Recommendations:**

a) Bring to an end the use of indefinite pre-trial detention and ensure the respect of the principles of necessity and proportionality in its application;

b) Release all individuals arbitrarily detained and provide them with a right to reparation;

c) Ensure that conditions of detention are in conformity with international standards.

##### *3.1.3. Torture: systematic practice*

26. An important number of cases documented by Alkarama and other civil society organisations show that various security institutions systematically use torture to extract confessions especially in cases of suspicion of terrorism.

27. Despite the newly introduced Lebanese mechanisms, which still have to prove their effectiveness, Alkarama is worried about the routinely used practice of extracting confessions under duress. It seems that this "method" is not only used by official security forces but also by non-state

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<sup>10</sup> Amnesty International global report, DEATH SENTENCES AND EXECUTIONS 2018, <https://www.amnesty.org/download/Documents/ACT5098702019ENGLISH.PDF> (accessed 6.3.2020)

<sup>11</sup> Alef: The Situation of Human Right in Lebanon: annual report 2015, page 15. [https://alefiban.org/wp-content/uploads/2016/10/ALEF\\_Human-Rights-in-Lebanon\\_2015.pdf](https://alefiban.org/wp-content/uploads/2016/10/ALEF_Human-Rights-in-Lebanon_2015.pdf) (accessed 13.3.2020)

<sup>12</sup> Recommendations n. 132.101 (France); n. 132.102 (Portugal); n. 132.103 (Switzerland); n. 132.104 (Belgium); n. 132.105 (Sierra Leone); n. 132.106 (Luxembourg); n. 132.107 (Germany);

<sup>13</sup> Recommendation n. 132.124 (France)

<sup>14</sup> World Prison Brief, <https://www.prisonstudies.org/country/lebanon> (accessed 6.3.2020)

<sup>15</sup> This is even more alarming since Lebanon's main detention center, Roumieh Prison which is known for its chaotic conditions, doesn't come anywhere near to the minimum standard rules for the treatment of prisoners (Nelson Mandela Rules).

actors interacting closely with state institutions. Confessions extracted under torture are admitted in trials and constitute often the only incriminating circumstance. Allegations of torture are rarely investigated by courts or even punish the accuser.

28. On August 22, 2016 Loyal al-Kayaje was sentenced to one-month imprisonment for "defamation and libel against the Lebanese army". Al-Kayaje publicly denounced her rape by military officers during a former detention. Prior to her trial, al-Kayaje was detained *incommunicado*, interrogated and forced to sign a statement according to which she "invented the rape allegations".<sup>16</sup>

29. Despite internal codes of conduct for the security forces, cases of torture continue to be reported. On the first of November 2018 Hassan al-Dika was arrested on drug-related charges. In the following month Mr. al-Dika alleged to have been subjected to torture during detention. On the second of April 2018 Mr. al-Dika was transferred to a Hospital due to his deteriorating health caused by severe injuries, where he died on May 11.<sup>17</sup>

30. Finally, the principle of non-refoulement (article 3 CAT) continues to be violated. For example, Zayed al-Dolaei was extradited to his home country, Iraq, despite the grave risk to be subjected to torture or even execution. In Iraq he was wanted under the pretext of "joining a terrorist group", an accusation that habitually leads to the use of the torture in the investigation and detention period in the requesting country.<sup>18</sup>

31. **Recommendations:**

- a) Bring a definitive end to the practice of torture and reject any statements obtained thereof;
- b) Investigate, prosecute, and punish the perpetrators of torture with penalties reflecting the gravity of their actions;
- c) Ensure that Security Services members respect international standards and comply with the internal codes of conduct;
- d) Respect at all times the principle of non-refoulement.

### 3.2. Right to a fair trial

#### 3.2.1. Compliance with the guarantees of a fair trial

31. Through the documentation of Alkarama it becomes evident that the practice of *incommunicado* detention is current, in particular during the period of police custody. A great violation to the right of defence is constituted by the impossibility to communicate with the lawyer. Unfortunately, since the previous UPR, a great number of persons continues to be detained following unfair trials.

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<sup>16</sup> On 29 September 2015, the investigative judge of the Military Court confirmed the charges of "defamation and libel against the Lebanese army," without considering her torture allegations and opening an investigation, as demanded in the Convention against Torture (UNCAT) ratified in 2000. <https://www.alkarama.org/en/articles/lebanon-loyal-al-kayaie-sentenced-military-court-having-denounced-her-rape-military> (accessed 9.3.2020).

<sup>17</sup> Although the anti-torture law prohibits security agencies from carrying out torture investigations, the case was investigated by the Internal Security Forces concluding that Mr. al-Dika died from medical conditions existing prior to his detention. <https://www.hrw.org/news/2019/09/19/lebanon-judiciary-ignoring-2017-anti-torture-law> (accessed 9.3. 2020).

<sup>18</sup> During the review of Lebanon by the Committee against Torture (CAT) on 21 and 22 April 2017 (60 Session), the UN experts raised al-Dolaei's case with the Lebanese delegation. The Lebanese authorities were thus in full awareness of the violation. <https://www.alkarama.org/en/articles/lebanon-iraqi-refugee-extradited-his-home-country-despite-risk-torture-and-death-0> (accessed 9.3.2020).

32. The length of pre-trial detention is often prolonged through unjustified procedural delays unnecessarily. In addition, as demonstrated above and in full violation of article 77 CCP, confessions obtained under torture are frequently used as the sole evidence in penal procedures.

33. **Recommendation:**

a) Respect fair trial guarantees and release those arbitrarily detained.

*3.2.2. Special courts*

34. Lebanon has two extraordinary jurisdictions: the Military Tribunal and the Judicial Council. They both lack independence from the Executive, and their rules of procedures do not offer sufficient judicial guarantees to protect the rights of the defence. In the previous UPR session Lebanon merely noted the recommendation relating to the abolition of these jurisdictions.<sup>19</sup>

35. The Military Tribunal continues to raise serious concerns given the large number of civilians being brought before it. Military Tribunals should never have the competence to judge civilians, given their lack of independence and impartiality. The Decree n°. 24/68 of 1968, establishing the military tribunal, does not provide sufficient safeguards: the presence of a lawyer is not guaranteed and trials can be held *in camera*.

36. The Judicial Council is considered to be a political body, since the Executive appoints its members by a decree of the Council of Ministers. As such, it cannot be considered as a judicial authority. Furthermore, cases documented by civil society organisations show a habitual use of *incommunicado* detention, torture and other cruel, inhuman and degrading treatment. Lastly, it should be highlighted that decisions taken by the Judicial Council are definitive.

37. **Recommendations:**

a) Amend the Decree n°. 24/68 of 1968 to limit the Military Tribunal's jurisdiction to members of the armed forces and for acts falling under military law;

b) Abolish the Judicial Council and ensure that all persons who have been subjected to an unfair trial are retried or released.

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<sup>19</sup> Recommendation n.132.149 (Hungary).