

ALTERNATIVE REPORT-LEBANON: CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT AND PUNISHMENT

Lebanon
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Disclaimer

While the team made all efforts possible to cross check information and reproduce only accurate facts and events, this does not overrule the possibility of inaccuracies or oversights, for which ALEF expresses hereby its regrets.

RECOMMENDATIONS TO THE COMMITTEE AGAINST TORTURE

1. The Lebanese Government should criminalise torture in line with the definition in Article 1 UNCAT, provide for command responsibility where superiors knew or should have known that torture was likely to occur, and repeal any legislation relating to amnesty or limitation periods regarding this crime. Sentences for the crime of torture should reflect the gravity of the offence.
2. The Lebanese Government should ensure that victims of torture receive redress and free access to all necessary psychological, social and medical services for rehabilitation.
3. The Lebanese Government should amend the Code of Criminal Procedure to ensure that arrestees are given prompt and private access to a doctor and that full, detailed records of detention and interrogation are preserved.
4. The Lebanese Government should immediately place all doctors in contact with detainees under the authority of the Ministry of Health, and remove any oversight of their selection or remuneration from authorities responsible for managing places of detention.
5. The Lebanese Government should make arrangements for the systematic videotaping of all interrogations.
6. The Lebanese Government should transfer the management of all prisons and detention centres to the already established Directorate of Prisons at the Ministry of Justice, including those currently controlled by the Internal Security Forces and the Ministry of Defence.
7. The Lebanese Government should ensure that the provisions of Prisons Law No. 14310 in regards to accountability and responsibility in each place of detention are respected.
8. The Lebanese Government should make sure that the newly established National Preventive Mechanism is completely independent.
9. The Lebanese Government should ensure that all law enforcement officials are bound by a Code of Conduct in line with international standards and good practices, These officials should be provided with adequate training to carry out their functions in line with the Code of Conduct. The latter's rules and regulations should be respected; this may be achieved through follow-up training and professional development initiatives.
10. The Lebanese Government should establish an independent complaints system for cases of torture and ill-treatment at the national level.it should also ensure that secure, anonymous complaint boxes are available in all places of detention.
11. The Lebanese Government should repeal all laws that unreasonably suppress freedom of speech by human rights defenders, or affect their ability to operate freely without fear of arrest for investigating or drawing attention to cases of torture and ill-treatment.

12. Lebanese Government seek the implementation of a comprehensive training programme for all law enforcement officials, including community policing, witness support, forensic science and appropriate methods of questioning suspects and possible witnesses. Adequate funds for such training should be included in the government budget, and the curriculum developed through an inclusive process should include all stakeholders.
13. The Lebanese Government should ensure that mechanisms for cases of torture and ill-treatment are accessible by all groups, particularly those at risk of being tortured.
14. The Lebanese Government should ensure that the rights of detainees are displayed in all places of detention, along with details on how to trigger the relevant complaint mechanism.
15. The Lebanese Government should ensure that all law enforcement officials and agencies fall within the mandate of an independent complaints, monitoring and investigative body. The latter independent body should be equipped with sufficient resources and powers to function effectively. These resources and powers should include, but are not limited to: human resources, the ability to access documents and other pertinent information, as well as the power to summon witnesses.
16. The Lebanese Government should systematically collect data on cases of torture and ill-treatment, as well as numbers of complaints, deaths or injuries in custody, and inter-detainee violence. This data should be made public in an aggregated, anonymous form on an annual basis.
17. The Lebanese Government should provide access of refugees on the basis of compliance with international refugee law standards, in particular the principle of *non-refoulement*

Summary

In March 2016, the Government of Lebanon submitted its initial Report to the Committee against Torture (CAT). Although this effort is a step forward, the Report had been overdue for 15 years, and contained no substantial information in terms of developments and efforts at the hand of the Lebanese government towards preventing torture in Lebanon. It also had no mention of Lebanon's progress towards implementing recommendations accepted as a result of the 2015 Universal Periodic Review. While the overall level of human rights protection has witnessed some improvements, these depend on political priorities of individual Ministers rather than coherent policy decisions, and are frequently affected by armed conflicts and clashes. There is interference by the executive body in the judicial process¹, and unconstitutional Military Courts continue to operate.²

For many years, Lebanon lacked a system that oversaw the implementation of international treaties, including the United Nations Convention against Torture (UNCAT). The legislative and policy framework to prevent impunity for torture was also absent, putting people in places of detention at greater risk of torture and ill treatment. This changed however in October 2016 when the Lebanese Parliament passed on legislation for the creation of a national preventative mechanism to monitor and investigate the use of torture and ill treatment.³ On the other hand, torture is still widespread, with numerous cases reported every year, particularly suspects of national security offences, non-Lebanese citizens, LGBT, and drug addicts. A well-functioning legislative and policy framework to prevent impunity for torture is absent.

In a socio-cultural study conducted by ALEF on the acceptance of violence in Lebanon, it was found that 23% of Lebanese would accept violence as an instrument of power and a tool to enforce power and control over opponents. In a focus group conducted by ALEF in 2015 with youth aged 18- 25, participants stated that the use of torture to obtain a confession, in cases of national security, is acceptable.⁴ This highlights society's tolerance of the use of torture for certain suspects, specifically those who are suspected of terrorism. Moreover, in a survey conducted by ALEF in 2011, 23% of respondents associated violence with "political violence" and 27% said that they knew at least one person who has suffered from beating by official security agents.⁵

The recent security challenges impose greater pressure on the Lebanese State agents to better enforce security while complying with human rights values. However reports and allegations of torture have been alarming throughout 2016. Violations to article 3 of the UNCAT, the principle of *non-refoulement*, was considered as an ongoing concern and risk.

¹ Lebanon-The Independence and Impartiality of the Judiciary, Maya W. Mansour Carlos Y. Daoud, Copenhagen, February 2010, Euro-Mediterranean Human Rights Network.

² Military Tribunal – A Breach in the Integrity of the Judicial System, ALEF-Act for Human Rights, May 2010.

³ Human Rights Watch, 'Lebanon, events from 2016', *World Report*, <https://www.hrw.org/world-report/2017/country-chapters/lebanon>.

⁴ LCPS AND ALEF, Right to a Fair Trial Focus Group Report, LCPS AND ALEF, 2015

⁵ The survey was conducted by Statistics Lebanon in August 2010 on a sample of 400 Lebanese over 16 years distributed throughout Lebanon. ALEF "Report on the Socio-Political & Cultural Contexts of Violence" May 2011 p.9

1. DEFINING AND CRIMINALIZING TORTURE (ARTICLES 1, 4, 14)

1.1 COMPLIANCE OF LEBANESE CRIMINAL LAW WITH UNCAT

The compliance of Lebanese law with the UNCAT regarding criminalization of torture can be summarized as follows:

Subject	Lebanese Law	Compatibility of the Lebanese Law with the CAT
Definition of torture	Article 401 of the Penal Code states: "Anyone who inflicts violent practices not permitted by the law against another person with the intention to extract a confession of a crime or information related to it will be imprisoned from three months to three years. If the violent practices have led to sickness or caused wounds, the minimum period of imprisonment is one year". Unlike in Article 401, in Article 569 the word torture is clearly mentioned. The article states: "anyone who deprives another person of his individual liberty by kidnapping or by any other means will be temporarily imprisoned. He will also be imprisoned for life...[i]f the one whose liberty was deprived was mentally or physically tortured...".	According to the Preamble to the Constitution and Article 2 of the Lebanese Code of Civil Procedure, international law takes precedence over national laws in court proceedings. Lebanese courts could therefore interpret the term 'violent practices not permitted by the law' in Article 401, and the term 'torture' in Article 569 of the Penal Code in line with the UNCAT definition. However, this does not happen in practice. The current law is inadequate to cover all aspects of the definition in Article 1 UNCAT, in particular purely psychological torture. Article 401 of the Penal Code is restricted to use of force for the extraction of information or a confession, and does not include other prohibited purposes such as punishment, intimidation, coercion, or discrimination. Similarly, Article 569 of the Penal Code applies only to cases of kidnapping or unlawful detention.
Perpetrators and command responsibility	The Penal Code applies whatever the status of the perpetrator, whether a public official or not. The Code of Criminal Procedure prohibits the use of force to obtain a confession in Articles 41 (as regards flagrants délits) and 47 (for ordinary crimes). Confessions obtained through the use of force are not admissible in court. Lebanese law does not contain any provisions regarding command responsibility for torture.	The element of State responsibility required for the crime of torture is absent from the Penal Code. While the Code of Criminal Procedure prohibits the use of force to obtain a confession, there are no provisions for command responsibility for this or any other form of torture or cruel, inhuman or degrading treatment or punishment.
Defences, limitation	Lebanese law does not provide	Lebanese law does not

periods and amnesty	for exceptions to general limitation periods and defences as regards crimes related to torture. Law 84 of 26 August 1991 granted a general amnesty for all crimes committed by militias and armed groups during the civil war prior to 28 March 1991. The amnesty explicitly includes offences that involve torture, including Article 569 of the Penal Code, discussed above.	implement the exclusions to defences or general limitation periods. The amnesty law pre-dates the ratification of the UNCAT, but its continued existence indicates a lack of political will to address torture.
Universal jurisdiction	Article 23 of the Penal Code stipulates that "Lebanese law shall apply to any foreign national in Lebanese territory who, as perpetrator, instigator or accomplice, has committed, in a foreign country, a crime or offence ... respect of whom no application for extradition has been applied for or granted." While Lebanese law does not apply to acts committed abroad which are not a crime in Lebanon, this arguably does not cover acts of torture by virtue of the direct applicability of Article 5 of the Convention against Torture.	According to available information, this provision has never been applied in practice to cases of torture.
Sentencing	Article 401 of the Penal Code is a petty crime in Lebanese law, with a maximum sentence of three years. According to Article 557 of the Penal Code, if a crime leads to mutilation, removal of an organ, loss of a sense, serious disfigurement or other permanent injury, the maximum sentence is 10 years' hard labour. As hard labour is no longer used as a punishment in Lebanon, the time period may be increased at the discretion of the judge.	The sentences provided are clearly inadequate to reflect the gravity of the crime of torture, which should have equivalent sentences to the most serious crimes.
Compensations and ways to give equity to the victims of torture	The Penal Code does not provide for compensation, rehabilitation and redress for victims of torture.	Lebanese law does not provide access to redress for all victims of torture.
Exclusion of evidence obtained by torture	Article 77 of the Code of Criminal Procedure, which deals with the rights of detainees before a judge, stipulates that a judge must make sure the defendant is speaking without external influence, but does not make any explicit reference to torture.	Lebanese law does not specifically exclude evidence, including secondary evidence, obtained by torture.

INADEQUATE PUNISHMENT FOR PERPETRATORS

On the 24th of June 2013 Nader al-Bayoumi, a 36-year-old Lebanese car mechanic was arrested and detained following armed clashes between the Lebanese army and Ahmed al-Assir's armed group in Sidon. Two days later, al-Bayoumi reportedly died in prison due to the injuries he sustained from being tortured during his investigation. Amnesty International, who has seen images of Nader al-Bayoumi's body, confirmed that he bore signs of abuse and torture. Even though a medical examination was conducted on the body to determine the cause of death by a forensic pathologist, no medical report was made up, out of fear of prosecution.

According to Human Rights Watch, five army personnel were charged on July 8, 2013 with 'violating military orders, abuse of power and accidentally killing a person' in al-Bayoumi's case.¹ However, any updates regarding these charges were never made public. Since the act involved military personnel, the case was referred to the Military Court, which would subsequently take disciplinary measures against the perpetrators, without referring them to a penal tribunal. Human Rights Watch and Amnesty International both called for an independent and impartial investigation in the case, but such an investigation was never realised.

Lebanon still lacks an effective definition for torture. The only article that refers to this practice is in article 401 of the Criminal Code; however, this article does not comply with the definition of torture provided in article 1 of the United Nations Convention against Torture and other Cruel, Inhuman and Degrading Treatment (UNCAT). It also includes many loopholes that are inconsistent with the convention.

MPs, namely from the Human Rights Parliamentarian Committee, have been working alongside CSOs in a series of workshops and meetings seeking to draft, discuss and pass a draft law criminalizing torture in accordance with the UNCAT. A draft law was presented by MP Moukheiber to parliament in December 2012, and is being studied and reviewed by the Justice and Administrative Reform committee at the Lebanese Parliament. The current draft adopted by the latter committee included several changes that might hamper the efforts towards the prevention and the criminalization of torture. A major change in the draft is the inclusion of a contextual condition to the definition of torture which specifies that the act only qualifies as torture if committed "during the initial investigation, judicial investigation and trials". In addition, the law contains gaps, mainly the lack of prevention mechanisms for torture or redress for victims. The draft does not consider *refoulement* as an act of torture as per article 3 of the UNCAT.

This purposely limits the situation in which torture might be practiced and therefore criminalized. The revised definition excludes acts of torture that might be practiced during transport, detention or even in other places of deprivation of liberty such as mental health hospitals.

1.2 RECOMMENDATIONS

1. The Lebanese Government should criminalise torture in line with the definition in Article 1 UNCAT, provide for command responsibility where superiors knew or should have known that torture was likely to occur, and repeal any legislation relating to amnesty or limitation periods regarding this crime. Sentences for the crime of torture should reflect the gravity of the offence.
2. The Lebanese Government should ensure that victims of torture receive redress and free access to all necessary psychological, social and medical services for a rehabilitation.

2. TORTURE PREVENTION (ARTICLES 2, 10, 11,16)

2.1 NORMATIVE FRAMEWORK FOR PREVENTION

The Lebanese Code of Criminal Procedure falls short of the requirements of the UNCAT. For example, the law does not specify a time limit within which the detainee must see a doctor.⁶ Furthermore, forensic doctors are appointed and paid on a case-by-case basis from a list established by the Ministry of the Interior, Ministry of Health and General Prosecutor of the Court of Cassation. In informal contacts with forensic doctors, ALEF was told that doctors who make findings of torture are rarely given further contracts.

LEBANON AND THE OPCAT

For many years Lebanon lacked a system that oversaw the implementation of the United Nations Conventions Against Torture (UNCAT). However, the law for the establishment of a National Preventive Mechanism (NPM), as part of the National Human Rights Institution ratified on the 20th of October 2016 by the Lebanese parliament, represents a significant progress in the promotion of human rights and the implementation of the provisions of the OPCAT ratified by Lebanon in 2008. The NPM will provide an independent and national mechanism to monitor places of deprivation of liberty, and will help promote preventive actions against torture in security agencies. It will hopefully do so through unexpected visits to detention centres by a committee of experts

⁶ Special Tribunal for Lebanon, 'Lebanese Code of Criminal Procedure', August 7, 2001, <https://www.stl-tsl.org/en/documents/relevant-law-and-case-law/applicable-lebanese-law/340-lebanese-code-of-criminal-procedure>. ; ALEF "Lebanon: The Painful Whereabouts of Torture" 2008 p. 40.

2.2 PRISON ADMINISTRATION, ADMINISTRATION OF JUSTICE AND CONDITIONS OF DETENTION

Prisons in Lebanon are still under the authority of the Ministry of Interior, despite two laws providing for the transfer of this authority to the Ministry of Justice, the earliest of which dates from 1964.⁷ According to the Lebanese Government, efforts to make this transfer began only in 2008, and were due to be completed by 2013, with the support of the UNODC. However, still today the authority hasn't transferred yet from the Ministry of Interior to the Ministry of Justice.⁸ A greater concern is the continued existence of "special prisons" managed by the military, with little or no oversight by the judiciary or any other independent body. These include the Ministry of Defence prisons and the "information branch" building within the ISF-managed prison of Roumieh, which is apparently under the independent control of the ISF intelligence unit, but is not officially registered as an independent prison.⁹ NGOs, as well as the media have reported regular, consistent and credible allegations of torture at these facilities.¹⁰

The Lebanese Armed Forces (LAF) have since the early 1990s refurbished basements at the Ministry of Defence (MoD) to accommodate prisons and places of detention. Conditions of detention at the MoD are inhuman and degrading particularly due to the lack of natural light and limited living space.¹¹ The CAT also reported the inconformity of the prison registry with the Istanbul Protocol while an official of the LAF acknowledged the allegations of torture being practiced at the MoD detention facilities.¹²

In July 2016, 55.63% of the prisoners were in pre-trial detention.¹³ This is a slight improvement compared to 57.09% in early 2016 and 66% in 2010.¹⁴ Detainees in pre-trial detention are also housed with convicted prisoners in all prisons, which should be changed. These figures, however, exclude detention centres such as the Directorate general of General Security (DGGS) prisons, which hold foreign detainees, and police stations. The state of these police stations raises grave concerns, as the conditions of detention are conducive to procedural abuses. As police stations are usually the first place of detention after arrest, they are designed to hold detainees for a short period of time often not expected to go beyond 96 hours.

In light of this, the space provided in the holding cells is limited, and there are no systems in place to provide detainees with food or basic sanitation needs. The detainees' families therefore have to provide food and other needs such as clothing and mattresses for the length of the

⁷ Decree no. 17315 of 28 August 1964 and Decree No. 151 of 16 September 1983

⁸ United Nations Office on Drugs and Crime (UNODC), 'Reinforcing Human Rights and Democracy in Lebanon: Penal Reform focusing Prison reform', November 7, 2016, <http://www.unodc.org/brussels/en/lebanon.html>. More details on this project are available on the UNDOC website:

http://www.unodc.org/documents/treaties/UNCAC/CountryVisitFinalReports/2016_03_08_Lebanon_Final_Country_Report.pdf.

⁹ Lebanese Center for Human Rights (CLDH) "Prisons in Lebanon: Humanitarian and Legal Concerns". P. 17.

¹⁰ U.S. State Department, 'Lebanon 2015 Human Rights Report', <https://www.state.gov/documents/organization/253147.pdf>; United Nations, 'Report of the Committee against Torture', fifty-first session (28 October – 22 November 2013), fifty-second sessions (28 April – 23 May 2014).

¹² United Nations, General Assembly, "Summary account of the results of the proceedings concerning the inquiry on Lebanon", in *Report of the Committee Against Torture*, Sixty Ninth Session of the General Assembly, 2014. (hereinafter referred to as CAT Report)

¹³ "Numerical Count of Inmates Present in Lebanese Prisons", February 15, 2016.

¹⁴ According to sources from the Ministry of Justice. ; Lebanese Center for Human Rights (CLDH) "Prisons in Lebanon: Humanitarian and Legal Concerns". P. 51.

detention period, and even then, a set location or duration for visits is unspecified. What renders these challenges even more problematic is the fact that, as mentioned previously, the 96- hour limit for detention is widely unobserved. This leads to overcrowding in police station holding cells, imposing further strains on jail capacity, health, and safety guidelines, and fair trial rights. Additionally police stations are strained and often have weak infrastructure. Some detention cells in police stations don't have light, or aeration. Police officers end up installing makeshift aeration systems from the available material.

There is a particular concern for refugees and migrant workers without documentation papers, and without the means to return to their countries after they complete their sentence. Although the Prisons Law No. 14310 contains some provisions on management and the treatment of detainees in line with international standards, including provisions related to inspection (Article 13), medical care (Articles 52-54), separating prisoners according to their sex and criminal record (Article 62), and the availability of food, bedding and clothing (Articles 75-86), these provisions are not respected in many prisons.

The Code of Criminal Procedure does not oblige law enforcement officials to register all relevant information related to each detainee e.g. the state of health of the detainee upon detention and any changes thereto, the time and place of interrogations with the names of all interrogators present, and other details. As a result, there is no systematized information about each prisoner's age, criminal record, reason for detention and required medical treatment.

2.3 ACCOUNTABILITY AND OVERSIGHT MECHANISMS

In October 2016, the Lebanese Parliament passed on legislation for the creation of a national preventative mechanism to monitor and investigate the use of torture and ill treatment (NPM), as part of the National Human Rights Institute (NHRI).¹⁵ The NHRI will be tasked with monitoring the human rights situation in Lebanon. In order to do so it will receive complaints of violations and issue periodic reports and recommendations.¹⁶ The NHRI will include a Committee for the Protection from Torture which will have the authority to conduct regular unannounced visits to all places of detention, investigate the use of torture, and issue recommendations to improve the treatment of detainees.¹⁷ The establishment of an independent national human rights body and mechanism to investigate torture and ill-treatment is a positive step towards the improvement of human rights in Lebanon and a positive step towards curbing down the use of torture in prisons and during interrogations in Lebanon.

Albeit with more than eight years of delay, the implementation of this law makes Lebanon finally comply with its obligation under the Optional Protocol to the Convention against Torture (OPCAT), which Lebanon ratified on December 22, 2008.

¹⁵ Human Rights Watch, 'Lebanon, events from 2016', *World Report*, <https://www.hrw.org/world-report/2017/country-chapters/lebanon>.

¹⁶ Human Rights Watch, 'Lebanon, events from 2016', *World Report*, <https://www.hrw.org/world-report/2017/country-chapters/lebanon>.

¹⁷ Human Rights Watch, 'Lebanon: New Law a Step to End Torture', October 28, 2016, <https://www.hrw.org/news/2016/10/28/lebanon-new-law-step-end-torture> (accessed 3-01-2017).

2.4 TRAINING AND CONDUCT OF LAW ENFORCEMENT OFFICIALS

Despite institutional progress described in the previous section, there has been no evidence of progress in promoting reform measures to increase transparency and accountability of security forces. Lebanon had sought the adoption of different mechanisms for the prevention of torture. Such mechanisms promoted institutional instruments for complaints, as well as detection and investigation of torture practices. Certain state agencies have certainly committed to these, such as the ISF which established a department of human rights, a committee against torture, a Code of Conduct (CoC), and a memorandum that describes the role of ISF units in the application of the UNCAT. Unfortunately these mechanisms, however important, remain far from being effective instruments for the prevention of torture. The ISF committee against torture fails to adopt a victim friendly complaint mechanism, is unable to react to pervasive torture, and most importantly is unable and often unwilling to transparently report on the cases it has followed up on.

Article 5(2) of the CoC prohibits police members from practicing, inciting or disregarding any act of torture or ill-treatment of suspects during investigations, and makes explicit reference to the UNCAT. However, Article 6(1) requires them to obey all superior orders, and the Code does not explicitly state that orders to torture or other illegal orders should be disregarded, and makes no provision for command responsibility. Article 8 provides that arrestees and detainees should be informed promptly of their rights, and have access to their parents, legal representation and medical care, and that police should use scientific techniques during investigation, refraining from inhumane practice, and respect time limits of detention.

The LAF established its human rights office in 2009, which then became a directorate in September 2016. The office initially ensured the army's ability to comply and perform International Humanitarian Law. However, the army's policing mandate and its interactions with prisoners pushed the office to expand its scope of work in order to include Human rights law. The human rights Directorate implements International Humanitarian Law and Human Right law instruments ratified by the Lebanese parliament. Its current priorities are the prevention of torture and due process.

The DGGS has also developed its CoC in 2016, which offers significant advancements in the modernization as it acknowledges the existence of its detention centres in an official document and addresses thoroughly the ongoing issues related to migrant workers. However, it contains visible limitations, such as the lack of mention of an oversight mechanism and accountability structure as well as efficient remedies to human rights violations.

2.5 RECOMMENDATIONS

3. The Lebanese Government should amend the Code of Criminal Procedure to ensure that arrestees are given prompt and private access to a doctor and that full, detailed records of detention and interrogation are preserved.
4. The Lebanese Government should immediately place all doctors in contact with detainees under the authority of the Ministry of Health, and remove any oversight of their selection or remuneration from authorities responsible for managing places of detention.
5. The Lebanese Government should make arrangements for the systematic videotaping of all interrogations.

6. The Lebanese Government should transfer the management of all prisons and detention centres to the Ministry of Justice, including those currently controlled by the Internal Security Forces and the Ministry of Defence.

7. The Lebanese Government should ensure that the provisions of Prisons Law No. 14310 in regards to accountability and responsibility in each place of detention are respected.

8. The Lebanese Government should make sure that the newly established National Preventive Mechanism that monitors and investigates the use of torture and ill treatment, is completely independent.

9. The Lebanese Government should ensure that all law enforcement officials are bound by a Code of Conduct in line with international standards and good practices. These officials should be provided with adequate training to carry out their functions in line with the Code of Conduct. The latter's rules and regulations should be respected; this may be achieved through follow-up training and professional development initiatives.

3. THE PRACTICE OF TORTURE AND OTHER CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT (ARTICLE 1, 3, 12, 16)

3.1 GROUPS AT GREATEST RISK OF TORTURE

Based on information received by ALEF over the last years, the following groups face an increased risk of torture and other forms of ill-treatment:

1. Non-Lebanese citizens, including Palestinian and Syrian refugees;
2. LGBT persons;
3. Persons accused or suspected of national security- related offences, like terrorism;
4. Persons undergoing treatment for drug addiction¹⁸;
5. Women and children, who are particularly at risk of domestic and community violence.

TORTURE OF SUSPECTED LGBT PERSONS: THE CASE OF SHADI

Shadi, a pseudonym for a 31-year old male Syrian refugee, was detained and tortured in February 2016 for five days in a row, under suspicion of being gay. According to his story, he was tortured by the Military Intelligence, LAF, Military Police and ISF in each of their detention centres.¹ Upon arrest, Shadi was not allowed to call a lawyer, neither to make any other phone calls to family or friends. He was not informed about the charges against him and was never brought in front of a judge. He was subjected to several forms of intimidation, ill- treatment, and torture throughout his detention, and was also forced to sign a document while blindfolded. A forced anal examination was also conducted to determine how many times he had sex with men.¹ Anal examinations are known to lack evidentiary value and are a form of inhuman and degrading treatment.

¹⁸ The Drug Repression Bureau, under the ISF, is notorious for brutal interrogations, in particular in Hobeich in western Beirut, with a consistent pattern of torture and ill-treatment for the purposes of individual and collective intimidation, extraction of a confession, or soliciting names and information on drug-related crimes. ALEF “Lebanon: The Painful Whereabouts of Detention” 2008.

VIOLENCE AGAINST WOMEN AND CHILDREN

In March 2016, 75 Syrian women were freed from two brothels by Lebanese security officers. In an interview conducted by Legal Agenda with some of these girls, different reasons that explain their higher vulnerability were exposed. Some of them had lost their families in war, while others were promised a better life for themselves and their children, including work, food and livelihood.¹ All of them thus fell victim to human trafficking out of need for achieving economic security. Another problem arises when and if these women report their cases to the police. Since protection mechanisms and frameworks are inexistent to ensure their safety, and even more so because security forces are often unable to detect and appropriately deal with trafficking cases, victims of sex-trafficking are at a great risk of falling back into this cycle of violence and exploitation.

In a report by Human Rights Watch that came out in 2017, several cases of military personnel torturing children and extracting forced confessions from them were reported.¹ Children should never be tried before Military Courts as they are under aged and their rights as minors are not protected within the court's jurisdiction. Although the Ministry of Social Affairs (MoSA) has a project that supports children in detention, this project is not extended to children that are detained by the military. Children tried by the Military Court therefore fall victim to abuse and psychological trauma.

HUMAN RIGHTS DEFENDERS AND FRONTLINERS

Human rights defenders working on the issue of torture have experienced increasing harassment from government authorities. In March 2011, the general prosecutor opened a criminal investigation against the Lebanese Center for Human Rights (known by its French initials, CLDH) after the political party AMAL filed a criminal complaint against CLDH for alleging in a report that some detainees were tortured by persons affiliated with AMAL prior to being transferred to state authorities. This judicial harassment against Ms Marie Daunay and Mr. Wadih Al-Asmar, both working for CLDH, continued even till 2015 when both accused had to appear before the Court of Publications.

3.2 TORTURE DURING EMERGENCIES: NAHR AL-BARED CONFLICT

From May 20 to September 2007, a conflict broke out between the LAF and members of the Islamist Group Fatah Al Islam. Interviews conducted by ALEF's field researchers with released Palestinians and families of detainees revealed allegations of physical and mental torture by the army. Forms of torture documented included: forcing the detainee to drink urine, sexual harassment, rape, hitting of sexual organs or weak and/or injured areas of the body, threatening, shaming, and cursing. These methods were used by investigators to extract information about the Fateh al Islam group and some detainees were compelled to sign reports without being informed of their content.¹⁹

In September 2012, 5 years after the facts, State Prosecutor Samir Hammoud referred the 2007 Nahr al-Bared case, which includes charges ranging from misdemeanours to felonies of 370 suspected individuals to the Judicial Council. The Council was then going to issue subpoenas for wanted fugitives, and several detainees who were released on bail.²⁰ In July 2013, Judge Jean Fahed announced the starting date of trials in the newly established courtroom in Roumieh Prison.²¹ As announced, the trials started on September 27th 2013, and were open to the public.²² The trials were adjourned to January 17, 2014. Another round of hearings started in November 2013 where 21 suspects of the Nahr el Bared incident were accused by the Judicial Council.²³ A period of non-activity in any judicial case was highlighted, further prolonging the judicial process mainly due to the long period of judicial recess, until May 2015 when Interior Minister Nouhad Machnouk declared that 75 percent of detainees held over the Nahr al-Bared clashes have already been tried and the rest will be tried within two months²⁴ The file was finally closed in July of the same year as stated by the Minister of Justice.²⁵

3.3 RECOMMENDATIONS

10. The Lebanese Government should establish an independent complaints system for cases of torture and ill-treatment at the national level, and ensure that secure anonymous complaints boxes are available in all places of detention.

11. The Lebanese Government should repeal all laws that unreasonably suppress freedom of speech by human rights defenders, or affects their ability to operate freely without fear of arrest for investigating or drawing attention to cases of torture and ill-treatment.

¹⁹ ALEF, Lebanon: The Painful Whereabouts of Detention, 2008.

²⁰ Youssef Diab, "Fatah al-Islam Inmates' Case goes to Lebanon's Top Court," The Daily Star, September 26, 2012, <http://www.dailystar.com.lb/News/Politics/2012/Sep-26/189253-fatah-al-islam-inmates-case-goes-to-lebanon-supreme-court.ashx#axzz2JHPccxLz>.

²¹ "September trial date set for Nahr al-Bared suspects", The Daily Star, July 23, 2013.

²² "Long awaited trial of Nar al-Bared detainees kicks off at Roumieh Prison", Naharnet, September 27, 2013 www.naharnet.com/stories/en/99994.

²³ "Trials of suspects in Nahr al-Bared clashes begin", The Daily Star, November 16, 2013.

²⁴ "Nahr al-Bared offenders sentenced to prison", The Daily Star, June 13, 2015.

<http://www.dailystar.com.lb/News/LebanonNews/2015/Jun-13/301890-nahr-al-bared-offenders-sentenced-to-prison.ashx>.

²⁵ 2 "Rifi hails Judicial Council's efforts to accelerate trial process", The Daily Star, July 16, 2015.

<http://www.dailystar.com.lb/News/Lebanon-News/2015/Jul-16/306886-rifi-hails-judicial-councils-efforts-to-accelerate-trial-process.ashx>.

4. EDUCATION AND DISSEMINATION OF INFORMATION (ARTICLE 10)

CURRENT SITUATION

The ISF has been collaborating with UNDP and the Dutch embassy to apply the recommendations made by the CAT. In that context, UNDP is providing trainings on torture prevention and awareness as well as capacity building workshops to enhance police officer's technical knowledge. UNDP is currently identifying the internal factors limiting ISF's ability to document and respond to alleged torture. As a response to their findings, UNDP is trying to increase the collaboration between the judiciary and medical field. It is also supporting the development of the ISF's Inspectorate and focusing on the development of internal accountability processes.

4.1 RECOMMENDATIONS

12. The Lebanese Government should design and implement a comprehensive training programme for all law enforcement officials, including community policing, witness support, forensic science and appropriate methods of questioning suspects and possible witnesses. Adequate funds for such training should be included in the government budget, and the curriculum developed through an inclusive process including all stakeholders.

5. RESPONDING TO TORTURE (ARTICLE 12, 13, 14, 15)

5.1 CURRENT SITUATION

The Committee on Monitoring and Follow-up of Torture Cases (“the Committee on Monitoring”) within the ISF has the mandate to receive and investigate complaints of torture against ISF officers, and receives complaints from victims, their representatives and NGOs, as well as investigating based on media and NGO reports. However, its working methodologies and degree of oversight are not clear. For example, the General Director of the ISF is mandated to follow up on recommendations of the Committee on Monitoring, and communications from the target of recommendations are included in reports, but it is not clear what measures may be taken in case of non-implementation of recommendations, or how the Committee on Monitoring follows up with the General Director in this regard.²⁶ Some judicial investigations have been conducted, but these are also not transparent in terms of process and outcomes.²⁷

Although the ISF had established a Committee on Monitoring and its human rights department, other security agencies such as the DGGs and army intelligence do not have a complaints and oversight mechanism of their own. Similarly, the ISF CoC, discussed above, does not apply to these agencies, although the ISF human rights department does have some degree of coordination with the DGGs on human rights issues.²⁸ The ISF has publicly discussed the possibility of forming a joint committee with the DGGs for the monitoring and follow up of cases of torture and ill-treatment.²⁹ Such a move should be accompanied by greater guarantees of independence, as the Committee is currently under the authority of the ISF’s General Director, who voluntarily refrains from interference.³⁰ However, until today, such a joint committee hasn’t been formed yet. Finally, the government has reported that the Ministry of Justice is also in the process of establishing a human rights department and a prison management department,³¹ and army officials have unofficially stated that similar monitoring structures are planned within the army.³² While none of the existing or planned structures provide a fully independent complaints and investigate mechanism, have neither of these planned structures been actually realised.

5.2 RECOMMENDATIONS

13. The Lebanese Government should conduct public-awareness-raising on the available complaints mechanisms for cases of torture and ill-treatment, and their precise mandates. The government should further ensure that such mechanisms are accessible by all groups at particular risk of torture.

²⁶ ALEF notes during workshop on the Optional Protocol to the UNCAT organized by Restart in partnership with the EU and IRCT. Beirut 29 March 2011

²⁷ Lebanon Debate “Launching of Committee to follow up on torture in prisons” [translated from Arabic by the author] available at: <http://www.lebanondebate.com/details.aspx?id=41737>

²⁸ ISF Representative. Personal Interview. 24 August 2011.

²⁹ ALEF notes during workshop on the Optional Protocol to the UNCAT organized by Restart in partnership with the EU and IRCT. Beirut 29 March 2011.

³⁰ ALEF notes during workshop on the Optional Protocol to the UNCAT organized by Restart in partnership with the EU and IRCT. Beirut 29 March 2011

³¹ National UPR report submitted by The Lebanese Government on 23 August 2010. Available at: http://lib.ohchr.org/HRBodies/UPR/Documents/Session9/LB/A_HRC_WG.6_9_LBN_1_E_Lebanon-eng.pdf
A/HRC/WG/6/9/LBN/1.

³² ALEF notes during workshop on the Optional Protocol to the UNCAT organized by Restart in partnership with the EU and IRCT. Beirut 29 March 2011.

14. The Lebanese Government should ensure that the rights of detainees are displayed in all places of detention, along with details of how to contact relevant complaints mechanisms.

15. The Lebanese Government should ensure that all law enforcement officials and agencies fall within the mandate of an independent complaints, monitoring, and investigative body with powers to summon witnesses and access documents and other information, and that such bodies have sufficient resources, including human resources, to function effectively.

16. The Lebanese Government should systematically collect data on cases of torture and ill-treatment, as well as number of complaints, death or injuries in custody, and inter-detainee violence. These data should be made public in an aggregated, anonymised form at least annually.