



LEBANESE CENTER FOR HUMAN RIGHTS  
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CENTRE LIBANAIS DES DROITS HUMAINS  
المركز اللبناني لحقوق الإنسان

## CIVIL AND POLITICAL RIGHTS in LEBANON in 2012

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ARAB HUMAN RIGHTS FUND  
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*Disclaimer: The opinions expressed in this report do not necessarily reflect the view of the Arab Human Rights Fund.*

## ABBREVIATIONS

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ACAT	Action by Christians against torture
ALEF	Lebanese Association for Education and Training
CEDAW	Convention on the Elimination of all forms of Discrimination Against Women
CLDH	Lebanese Center for Human Rights
CGTL	General Confederation of Lebanese Workers
DRC	Danish Refugee Council
ESCWA	United Nations Economic and Social Commission for Western Asia
FAO	Food and Agriculture Organization
HRW	Human Rights Watch
ICCPR	International Covenant on Civil and Political Rights
ILO	International Labour Organisation
ISF	Internal security forces
LGBT	Lesbian, Gay, Bisexual, and Transgender community
LMAC	Lebanese Mine Action Center
LPDC	Lebanese-Palestinian Dialogue Committee
NGO	Non governmental organization
NRC	Norwegian Refugee Council
OMCT	World Organization Against Torture
PLO	Palestine Liberation Organization
SKeyes	Samir Kassir eyes
SOLIDA	Support for Lebanese Detained Arbitrarily
SOLIDE	Support of Lebanese in detention and exile
STL	Special Tribunal for Lebanon
UNDP	United Nations Development Program
UNICEF	United Nations Children's Emergency Fund
UNFPA	United Nations Population Fund
UNHCR	United Nations High Commissioner for Refugees
UNRWA	United Nations Relief and Works Agency
WHO	World Health Organization

## CLDH PRESENTATION

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The Lebanese Center for Human Rights (CLDH) is a Lebanese non-political, nonprofit and independent Human Rights organization, based in Beirut.

The CLDH was created in 2006 by the French Lebanese Movement SOLIDA (Support for Lebanese Detained Arbitrarily) that is active since 1996 in the fight against arbitrary detention, enforced disappearance and impunity of the perpetrators of gross human rights violations.

CLDH monitors the human rights situation in Lebanon, fights against enforced disappearance, impunity, arbitrary detention, and racism and provides rehabilitation to the victims of torture.

CLDH regularly organizes press conferences, workshops, trainings and awareness-raising meetings on human rights in Lebanon and records and documents violations of human rights through reports and press releases.

CLDH team on the ground supports initiatives aimed at unveiling the fate of all the missing persons in Lebanon.

CLDH regularly follows up on numerous cases of arbitrary detention and torture in coordination with Lebanese and international organizations, with the United Nations Working Group on Arbitrary Detention and the UN Special Rapporteur on Torture.

In 2007, CLDH opened Centre Nassim, a rehabilitation center for the victims of torture in Beirut, a member of the IRCT (International Rehabilitation Council for Torture victims), that provides multidisciplinary support to the victims of torture and their families.

CLDH compiles a daily press review about human rights violations and ongoing judiciary cases in Lebanon, and daily updates several blogs.

CLDH is a founding member of the Euro-Med Federation against Enforced Disappearances (FEMED), a member of the Euro-Mediterranean Human Rights Network (EMHRN) and of the SOS Torture Network of the World Organization against Torture (OMCT).

## APPROACH

Since 2006, CLDH identifies and archives in the framework of its press review program, press articles published in Lebanon –in the Arabic, English and French press, which are dedicated to human rights issues in Lebanon.

In 2007, CLDH decided to draw up an assessment of the situation of civil and political rights in Lebanon, synthesizing and analyzing the data collected in this regard within its press review, in a report entitled "Civil and political rights Lebanon – 2007". Five years later, CLDH decided to prepare a new report to reflect the developments since 2007.

The media analysis of violations and/or advancement in the field of civil and political rights certainly represents a vast information source; nevertheless, such analysis cannot reflect an exhaustive overview of the overall situation of civil and political rights in Lebanon, as certain rights and freedoms generate greater media coverage than others. Taking into consideration the limitations of media sources, CLDH has collected information, analysis and views of the Lebanese civil society organizations active in the promotion and protection of civil and political rights.

This report covers the period from **January 2012 to December 2012**.

The aim of this report is to assess as much as possible the compliance by the Lebanese State with its commitments towards the protection and promotion of civil and political rights, reporting both advancements and violations in this field since 2007. This report cannot therefore be regarded as comprehensive.

## **CIVIL AND POLITICAL RIGHTS & COMMITMENTS**

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Civil and Political Rights, called the "first generation" human rights, are enshrined in the International Covenant on Civil and Political Rights (ICCPR) of December 16, 1966<sup>1</sup>. This treaty was adopted by Lebanon on November 3, 1972. The rights guaranteed by the ICCPR protect people and their property by guaranteeing them the exercise of their citizenship. Civil rights include the rights of the individual in the state (physical and moral integrity, right to life, liberty, security or privacy). Political rights include the place of the individual in the collective life (right to participate in political life, right to fundamental freedoms).

In addition to the ICCPR, Lebanon took part in other international human rights commitments, such as the Universal Declaration of Human Rights, an integral part of the Lebanese Constitution, the International Covenant on economic, social and cultural Rights, the Convention against torture and its Optional Protocol, the Convention on the rights of the child or the Convention against discrimination against women. The list of the ratifications of the various United Nations human rights protection mechanisms as well as the delays in submitting the reports required by these mechanisms are included as Annexes I and II of the report.

However, these accessions are not enough to guarantee the respect of human rights in Lebanon. There is no transposition of the provisions enshrined in these treaties into the domestic law, which are rarely respected. Multiple violations of human rights are reported in Lebanon, such as torture, ill-treatment, arbitrary detention and very poor prison conditions.

The Lebanese state encounter difficulties in meeting its obligations arising from its accession to various international treaties. On several occasions, the State has failed in its obligation to submit reports to the various bodies in charge of monitoring the effective implementation of international instruments such as the Human Rights Committee for the ICCPR or the Committee against the torture for the Convention against Torture.

The last report by the Lebanese State to the Human Rights Committee, body monitoring the ICCPR, was submitted on June 8, 1996. Following the examination of the report, the Committee requested a new report and additional information on the exercise of civil and political rights in Lebanon. No report has been issued by Lebanon since 1996, and the Committee is still awaiting two periodic reports of Lebanon planned for 1999 and 2003.

For all these reasons, NGOs such as CLDH took over the Lebanese state to report firstly to the Lebanese public opinion, and secondly to the international community, on the human rights situation in Lebanon. Numerous reports and press releases were published by NGOs in various fields of human rights such as torture, asylum, racism, arbitrary detentions, the judicial system flaws or freedom of expression.

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<sup>1</sup> Available at : <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx>

The Lebanese state acceded to the ICCPR, with the exception of Article 41 and the Optional Protocols to the Covenant. Article 41 of the ICCPR and the first protocol gives the Human Rights Committee competence to examine individual complaints with regard to alleged violations of the covenant. The second protocol pertains to the abolition of the death penalty, which is still in force in Lebanon, despite the efforts of the government with the *de facto* moratorium on executions, since 2004, which might lead to a law to abolish the death penalty.

Death penalty is not the only Lebanese law that clearly violates universal human rights. Some practices in Lebanon such as arbitrary detention, torture, discrimination against women, migrant workers, or the LGBT community, are in contradiction with human rights and should be denounced.

## RIGHT TO LIFE

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### **Universal declaration of human rights**

*"Everyone has the right to life, liberty and security of person"- Article 3*

### **International Covenant on Civil and Political Rights**

*"Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life. 2. In countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime and not contrary to the provisions of the present Covenant and to the Convention on the Prevention and Punishment of the Crime of Genocide. This penalty can only be carried out pursuant to a final judgment rendered by a competent court. 3. When deprivation of life constitutes the crime of genocide, it is understood that nothing in this article shall authorize any State Party to the present Covenant to derogate in any way from any obligation assumed under the provisions of the Convention on the Prevention and Punishment of the Crime of Genocide. 4. Anyone sentenced to death shall have the right to seek pardon or commutation of the sentence. Amnesty, pardon or commutation of the sentence of death may be granted in all cases. 5. Sentence of death shall not be imposed for crimes committed by persons below eighteen years of age and shall not be carried out on pregnant women. 6. Nothing in this article shall be invoked to delay or to prevent the abolition of capital punishment by any State Party to the present Covenant." - Article 6*

### **Convention on the Rights of the Child**

*«States Parties shall ensure that: (a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age" - Article 37a*

The right to life is frequently called into question in Lebanon by various forms of violations, such as bombings and assassinations. Constant fear of Lebanese living in fear of an attack is a violation of their rights to safety and security, also enshrined in the ICCPR. The damage caused by anti-personnel mines is also an interference with the right to life in Lebanon. Moreover, the Lebanese tribunals continue to hand down death penalties, and even within the prison system, the death of prisoners is also reported.



## Assassinations, attacks, bombings

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In recent decades, Lebanon has witnessed several politically motivated attacks, causing the deaths of two presidents of the republic, three prime ministers, many members of the Parliament, journalists, politicians, military members, diplomats and religious leaders.<sup>2</sup> Since 2008, the country enjoyed a relative stability following the Doha agreement.<sup>3</sup>

Samir Geagea's declaration, according to which he had been allegedly victim of an assassination attempt on April 4, 2012, revived fears of a return to the waves of political attacks. This assassination attempt was followed by two other attempts of the same kind, one against Michel Aoun, and the other against MP Boutros Harb. The STL, seized by a request put forward by the Lebanese political movement March 14 following the attack against M. Geagea, declared that the validity of this request depends on a prior agreement from the three parties directly concerned, namely the Lebanese government, the UN and the Security Council, as well as a credible link of the case to the attack targeting Rafic Hariri.<sup>4</sup>

2012 marked the end of the truce of political assassinations, with the car bombing killing general Wissam al-Hassan, head of the Intelligence Service of the Lebanese Internal Security Forces, on October 19, leaving seven other people dead, and seventy-eight injured near Sassine square, Ashrafieh, Beirut. Prime Minister Najib Mikati announced the government's intention to refer the case to the Court of Justice and to ask the Telecommunications Ministry to release all telecoms data since September 19 deemed necessary for such investigations to security agencies. The STL could possibly take cognizance of the case, following an official request of the Lebanese government, provided that a credible link can be established between this attack and the one perpetrated against Mr. Hariri.

On May 20, 2012, Sheikh Ahmad Mohammad Abdel Wahed, a Sunni cleric, and one of his companions, Mohammad Hussein Merheb were killed at an army checkpoint near Halba, in north Lebanon. Following the incident, a judicial investigation was opened by the military court. A climate of growing tension rapidly spread across the country, roads were blocked and automatic weapons fire injured several civilians in Beirut. Three officers and eight army soldiers were arrested and released on bail in July 2012, shortly after the double murder of sheikhs, which sparked anger among the families of the sheikhs, who protested against these releases.

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<sup>2</sup> L'Orient le jour, *Attacks targeting Lebanese prominent figures since 2005*, October 19, 2012. Rafic Hariri, Pierre Gemayel, Elias Murr (attempt), Walid Eido, Antoine Ghanem, François El-Hajj and May Chidiac (attempt), Wissam Eid, Saleh Aridi.

<sup>3</sup> Agreement submitted on May 23, 2008 by Prime Minister Fouad Saniora and adopted by the Lebanese political parties, which agrees on the consensual election of President Michel Suleiman and the formation of a government of national unity. This agreement provides that the Lebanese factions commit to abstain from having recourse or resuming the use of weapons and violence in order to record political gains, allowing the strengthening of the Lebanese state throughout its territory.

<sup>4</sup> L'Orient le jour, *Baragwanath to the «OLJ» : The attempted assassination of Samir Geagea is further evidence to the need to put an end to impunity*, April 6, 2012

A week following their release, the Military Judge Riad Abu Ghida therefore took the decision to issue arrest warrants against the three officers, after questioning them.<sup>5</sup> As for the families of the officers, in reaction to this new arrest, other demonstrators considered that "the widening of the investigation" which led to the arrests, violated the military institution.<sup>6</sup>

In July 2012, following an exchange of fire on both sides of the Lebanese-Syrian border, Syrian shelling provoked turmoil among the population. Several Lebanese civilians were killed in this conflagration on the country's northern front, which lasted five hours and emerged following the Lebanese Council of Ministers' decision to deploy the army to the border.<sup>7</sup>

### **Antipersonnel Mines**

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In response to the threat of landmines and unexploded ordnance in Lebanon and calling on the government's accountability, the Lebanese Council of Ministers established in 1998 the National Demining Office, which became in 2007 the Lebanese Centre for Action against Landmines (Lebanese Mine Action center - LMAC). The center is under the authority of the Lebanese Armed Forces, and is responsible for the organization of explosives demining in Lebanon, risk prevention and victims' assistance. The aim of the center is to encourage Lebanon to become a State member to the Protocol on prohibitions or restrictions on the use of mines, booby-traps and other devices, amended in 1996, as well as the 1997 Ottawa Convention on the prohibition of the use, stockpiling, production and transfer of anti-personnel mines and their destruction.<sup>8</sup>

In 2012, Lebanon submitted an updated report on the national measures to implement the Convention on cluster munitions report.<sup>9</sup> In May 2012, Lebanon attended the intercessional standing Committee meetings of the Ottawa Convention in Geneva. Lebanon voted in favor of UN General Assembly resolution 65/48 on antipersonnel mines on December 8, 2010, but subsequently informed the UN Secretariat that it had intended to abstain.

A significant number of cluster bombs do not explode on impact, remain on soil, and may explode at any moment. Lebanon is contaminated with mines and explosives remnants from the July 2006 war, and from the 1975 civil war. Since 2006, cluster munitions have killed and mutilated hundreds of people. Children are often the first to be exposed to the danger of mines.<sup>10</sup>

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<sup>5</sup> L'Orient le jour, *Shooting in Akkar: 3 officers and 8 of the 13 army soldiers released*, July 6, 2012

<sup>6</sup> L'Orient le jour, *"Friends of the army" block Sarba highway and oppose... the army*, July 17, 2012

<sup>7</sup> L'Orient le jour, *Northern front flares, the army begins its deployment at the border*, July 11, 2012

<sup>8</sup> Lebanon Mine Action Center website: <http://www.lebmac.org>

<sup>9</sup> Lebanon signed the Convention on Cluster Munitions on December 3, 2008 and ratified it on November 5, 2010. The Convention entered into force for Lebanon, on May 1, 2011.

<sup>10</sup> L'Orient le jour, *Lebanon still suffers from the mines*, June 13, 2012

In December 2012, the LMAC presented a plan of clearance and removal of explosives in Lebanon for nine years.<sup>11</sup>

In April 2012, the Handicap International team in Lebanon restored two plots of cleared land to villagers from Toula, in the district of Batroun as part of a demining project launched 20 months earlier. More than 60,000 m<sup>2</sup> of land have been manually cleared by deminers. The team continued during the year its demining activities in North Lebanon.<sup>12</sup>

## **Death penalty**

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Death penalty was reintroduced on March 21, 1994 in Article 302 of the Criminal Code, and has been applied 14 times from 1994 to 1998. On May 19, 1998, more than 1,000 people attended the public execution of two persons convicted of murder, hanged in the vicinity of their victims' residence, in Tabarja. Their bodies were exposed to the public for one hour. This public execution caused a trauma among young children who witnessed the execution, at Tabarja or on television. In the following days, several incidents involving games replicating the scene of the execution were reported. 2001 foreshadowed significant steps towards an eventual abolition of the death penalty in Lebanon; thus, on July 26, 2001, the Lebanese Parliament unanimously approved the Boutros Harb draft law giving judges the option not to pronounce death sentences in extreme cases, and President Emile Lahoud pledged in December 2001 to respect a moratorium on executions throughout his mandate. This hope did not last long, as following five years of moratorium, three persons sentenced to death for murder were executed on January 19, 2004. In June 2006, the issue of the death penalty was raised again with the establishment of the STL; in the Egyptian newspaper Al Ahram published on June 22, 2006, Prime Minister Fouad Siniora announced that Lebanon was going to abolish the death penalty to be in harmony with the STL. This statement remained a dead letter; although Lebanon would then become the first abolitionist Arab country.

In Lebanon, the death penalty is applicable under Articles 37, 43 and 549 of the Criminal Code for ordinary crimes.<sup>13</sup> Under the Lebanese law, any execution must be approved by the President of the Republic and the Prime Minister.

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<sup>11</sup> L'Orient le jour, *Lebanon Mine Action Center present its strategy for the upcoming nine years*, December 16, 2012

<sup>12</sup> [Handicap International, Lebanon: More than 60,000 m2 of land cleared of mines, May 2012](#)

<sup>13</sup> Criminal Code:

*"The ordinary criminal sanctions are the following: 1 – Execution [...]" – Article 37*

*"A death penalty shall be enforced only after consultation of the Pardon Commission and with the consent of the President of the Republic. Persons sentenced to death shall be hanged within prison premises or in any other location designated in the decree ordering enforcement of the penalty. A death penalty shall not be carried out on Sundays or Fridays, or on national or religious holidays. Enforcement of the death sentence against a pregnant woman shall be deferred until after she has given birth." - Article 43*

In Lebanon, approximately sixty convicted are sentenced to death. In 2012, the death penalty was sought in many cases by the general prosecutor or by judges in their indictments, and death sentences continued to be imposed by tribunals.

Thus, the general prosecutor demanded the death penalty against 26 of the 29 people accused of taking part in the kidnapping of seven Estonian cyclists in 2011. These Estonians were abducted in March 2011, shortly after crossing into Lebanon from Syria, and had been released unharmed four months later. Only nine of the 29 suspects in this case are in custody and the others will be tried in absentia.<sup>14</sup> In June 2012, military investigating judge Imad al-Zein required in its indictment the death penalty against three Lebanese men accused of killing a Syrian soldier during a shooting at the border in 2011. The same military judge also required in October 2012, the death penalty against two persons, Hani ash-Shanti and Gharam Hussein, accused of the murder of two soldiers of the Lebanese army in a confrontation that occurred in Beirut in May 2012.<sup>15</sup> In November 2012, Mount Lebanon judge Ziad Makna required the death penalty in its indictment against Shallita Charbel, for the murder of Roland Chbeir in October 2012.<sup>16</sup> In December 2012, the Syrian national Fathi Jabr al-Salatine was sentenced to death for the murder in November 2011 of Myriam Achkar in Sahel Alma.<sup>17</sup>

### **International Day against Death Penalty, October 11, 2012**

#### **Conference about the abolition of death penalty at the French Institute of Lebanon**

The French Embassy in Lebanon and the Human Rights Institute of Beirut Bar Association organized this conference with the presence of Ms. Angelina Eichhorst, representative of the European Union delegation in Lebanon, of the Minister of Justice Mr. Shakib Cortaboui and three other stakeholders whose speeches are hereunder:

Ms. Marie-Claude Najm, law professor at St Joseph University in Beirut, had a legal analysis of the death penalty in Lebanon. To her opinion, since the state has to be religiously neutral, the implementation of death penalty is of its responsibility and not of the religious communities that impose the application of Sharia. Most Arab countries have abandoned the Quranic sanctions advocating the death penalty, although all still practice it. Iran, Saudi Arabia and Iraq are among the countries that carried the greatest number of executions in 2011 and this number in Lebanon is much lower than in all other Arab countries. According to Ms. Najem, the abolition of the death penalty is not a question of numbers but of principle. The death penalty is simply incompatible with the right to life of every human being. This fundamental right belongs to the category of human rights which have a universal vocation and must ultimately be respected by all the communities. The right to life must be reconciled with the right to security of the society that has to be protected from criminals. The assumed preventive value of the punishment invoked by states that still practice it should not be an argument to keep it in force. To date, there is still no evidence that a criminal could refrain from committing a crime because of the death penalty that could be imposed on him.

For Pascal Beauvais, lawyer and co-director of the Center of Criminal Law and Criminology at the University of Nanterre: at national and international levels, we are moving towards universal abolition of the death penalty. European states, mostly abolitionists, set an example to those that still apply the death penalty in the world. The European Court of Human Rights considers that the extradition to a State using the death penalty is a violation of Article 3 of the European Convention on Human Rights

<sup>14</sup> Press release, April 26, 2012 – Reuters.

<sup>15</sup> [Daily Star, Judge requests death penalty for two over killing of soldiers, October 2012](#)

<sup>16</sup> [Daily Star, Judge orders death penalty, November 2012](#)

<sup>17</sup> [Naharnet, Killer of Myriam al-Ashqar Sentenced to Death, December 14, 2012](#)

condemning Inhuman or Degrading Treatment or Punishment. More and more states have adopted a moratorium scheme tending towards a future abolition.

Wadih El Asmar, Secretary General of CLDH sees the death penalty as a failure of the judicial system, since it amounts to the decision to eliminate a man whom society can not help. The best solution would be a complete abolition of the death penalty. Meanwhile, there are two other hypotheses tending towards abolition: a moratorium de facto or de law, a moratorium on executions. One third of the executions took place in Lebanon between 1994 and 1998. Article 302 of the Criminal Code - called Law 302 - required the judge to systematically issue a death sentence for certain categories of crimes, including premeditated murder. After the abrogation of this law, a de facto moratorium has been established in Lebanon. In 2001, the Lebanese Parliament passed a law that allowed judges to impose death sentences only in extreme circumstances. This did not prevent the commission of three executions on 17 January 2004 under this law, of persons whose convictions had been handed before the 302 law abrogation. On September 22, 2011, an amendment to the law 463/2002 on the application of sentences was passed, allowing an adjustment of the death penalty at the request of the prisoner. This law seems to mark a step towards abolition of the death penalty in Lebanon, and a strengthening of the de facto moratorium in force since 2005.

Among those sentenced to death, persons belonging to disadvantaged socio-professional categories are much more numerous than the others. Those who can afford to pay a good defense also have the means to sometimes escape punishment. Mr. El Asmar rejects the main argument in support of the death penalty, namely the authority of the state. It reaffirms the fact that the sentence is not a deterrent for criminals.

The conclusions of the conference were made by the debate held at the end with the assistance that extended its questions to the speakers. The risk of miscarriage is very important in Lebanon, as the Lebanese judicial system does not recognize the rights of suspects. It is vital for Lebanon to achieve real work on criminal law and develop the de jure moratorium on convictions to avoid that people remain for years in the death row. Pending a complete abolition, many projects can be implemented by the Lebanese judiciary. A judicial commission should review some trials, including those that led to the death penalty under the old article 302. It is also very important to strengthen the legal safeguards for offenders to ensure respect for their right to a fair trial, internationally recognized by Article 6 of the ICCPR. It is necessary to establish a prison policy instead of several scattered laws on the prison system. The role of NGOs is important to shape the minds about the death penalty, but not as much as the legislature that has the prerogative to change the law. We have to work in order to accustom, change and train the minds.

The Minister of Justice, Mr. Cortaboui, also speaking at the conference, proposed training for judges to change the judicial system and the establishment of new prisons. The minister concluded his remarks by stating that the proposed reform of the judiciary and the prison system is very long and expensive and that there are plenty of political restraints, hence suggesting that the road to abolition is still very long.

## DETENTION and TORTURE

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### **Universal declaration of human rights**

*"No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment."*- Article 5

### **International Covenant on Civil and Political Rights**

*"Nothing in the present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms recognized herein or at their limitation to a greater extent than is provided for in the present Covenant. 2. There shall be no restriction upon or derogation from any of the fundamental human rights recognized or existing in any State Party to the present Covenant pursuant to law, conventions, regulations or custom on the pretext that the present Covenant does not recognize such rights or that it recognizes them to a lesser extent."*- Article 5

*"No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation." - Article 7<sup>18</sup>*

*"Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law. 2. Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him. 3. Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgment. 4. Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful. 5. Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation." – Article 9*

*"All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person. 2. (a) Accused persons shall, save in exceptional circumstances, be segregated from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted persons; (b) Accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication.*

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<sup>18</sup> Human Rights Committee, General Comment 20, Article 7

3. *The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation. Juvenile offenders shall be segregated from adults and be accorded treatment appropriate to their age and legal status.*" - Article 10

### **Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment**

#### **Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment<sup>19</sup>**

##### **Convention on the rights of the child**

*"States Parties shall ensure that: a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age; b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time; c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances; d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action."* - Article 37

#### **Standard Minimum Rules for the Treatment of Prisoners<sup>20</sup>**

##### **Basic Principles for the Treatment of Prisoners<sup>21</sup>**

##### **Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment<sup>22</sup>**

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<sup>19</sup> Adopted on 18 December 2002 at the fifty-seventh session of the General Assembly of the United Nations by resolution A/RES/57/199. This protocol establishes a system of regular visits to places of detention by independent bodies. At the international level the Optional Protocol creates a new prevention body, the Sub-Committee on Prevention of Torture. At the national level, States Parties shall establish or designate National Preventive Mechanisms (NPM) within one year after ratification of the Optional Protocol.

<sup>20</sup> Adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva in 1955, and approved by the Economic and Social Council by its resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977.

<sup>21</sup> Adopted by the United Nations General Assembly resolution 45/111 of 14 December 1990.

<sup>22</sup> Adopted by the United Nations General Assembly resolution 43/173 of 9 December 1988.

## **Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment**<sup>23</sup>

## **Principles of Medical Ethics relevant to the Role of Health Personnel, particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment**<sup>24</sup>

## **Code of Conduct for Law Enforcement Officials**<sup>25</sup>

### **Lebanese Constitution**

*"Individual liberty is guaranteed and protected by law. No one may be arrested, imprisoned, or kept in custody except according to the provisions of the law. No offense may be established or penalty imposed except by law."*- Article 8

### **Criminal Procedure Code**

*"The Judicial Officers, in their capacity of assistants to the Public Prosecution, are entrusted with the responsibility of investigating crimes other than those in flagrante delicto, collecting information related to them, conducting inquiries with the aim of discovering the perpetrators and the participants in the crime as well as collecting evidence, with whatever that may entail regarding seizing criminal materials, physical inspections of the crime scenes, conducting scientific and technical studies on traces and features left behind, listening to the statements of the witnesses without swearing them in and to the declarations of the subjects of the complaints or the suspects. If they refuse to speak and remain silent, this must be mentioned in the official report. They must not be forced to speak or to be interrogated, under penalty of invalidity of their statements. The Judicial Officers must inform the Public Prosecution of their proceedings and follow its instructions. They do not have the right to search a house or a person without the prior authorization of the Public Prosecution, in which case they must abide by the procedures defined by law for the Attorney General to follow in cases of flagrante delicto. Every search they conduct in violation of these procedures will be considered as null and void. However, the invalidation will be limited to the search and will not go beyond to include other independent proceedings. They are prohibited from holding the suspect in their lock-up rooms except by decision of the Public Prosecution and for a period which does not exceed 48 hours. This period can be extended for a similar period of time if the Public Prosecution approves it. The detention period starts running from the time of the suspect's arrest. When being detained for investigation purposes, the suspect or the subject of the complaint has the following rights: 1. To call a member of his family, or his employer, or a lawyer of his choice or any of his acquaintances. 2. To meet with a lawyer he appoints by a declaration noted on the official report without having to duly draw up powers of attorney. 3. To request the assistance of a sworn translator if he is not proficient in Arabic. 4. To make a direct request or via his legal representative or a member of his family to the Attorney General for a medical examination.*

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<sup>23</sup> [Adopted by the United Nations General Assembly resolution 30/3452 of 9 December 1975](#)

<sup>24</sup> [Adopted by the United Nations General Assembly resolution 37/194 of 18 December 1982](#)

<sup>25</sup> [Adopted by General Assembly resolution 34/169 of 17 December 1979](#)



*The Attorney General will appoint a doctor for him immediately upon receipt of the request. The doctor must carry out the examination without any judicial officer being present and submit his report to the Attorney General within a period not exceeding 24 hours. The Attorney General will provide the applicant with a copy of this report as soon as he receives it. The detainee, or any of the persons previously mentioned, have the right to request a new medical examination if the detention period is extended. The judicial police must inform the suspect, immediately upon his detention, about his rights as previously stated and must record this proceeding in the official report." - Article 47*

### **Criminal Code**

*"Whoever submits a person to acts of violence not permitted by the law for the purpose of obtaining a confession or information about a crime will be punished by imprisonment from three months to three years. If such acts of violence lead to illness or injury, the minimum punishment of imprisonment will be for one year." - Article 401.*

Any detention must respect the principle of legality, the detainee must be informed of the reasons for his/her detention and shall be brought promptly before a judge or another officer authorized by law to exercise judicial power and shall be trial within a reasonable time. In addition, any person deprived of liberty shall be treated with humanity and respect for his/her dignity. In view of prison conditions, of numerous cases of arbitrary detentions, and allegations of torture and ill-treatment, Lebanon is failing to comply to the freedom and security of the person. Moreover, the treatment of persons deprived of liberty in Lebanon revealed many shortcomings in 2012.

### **Prisons Conditions and Administration**

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In 2012, the prison conditions of the 23 detention centers in Lebanon remain an issue of concern, taking into consideration the overcrowding, the lack of personnel training and the inadequacy of the premises. For example, CLDH keeps on condemning the practice of torture and horrifying conditions of detention at the Ministry of Defence detention center. The number and conditions of detention of the detainees kept in the Ministry of Defence detention center remain unknown. In 2012, the several riots reported notably in the Roumieh central prison, reflect the deplorable prison conditions of inmates in 2012.<sup>26</sup>

Despite the 1964 decree on the administration of prisons by the Ministry of Justice, prisons are still in 2012 under the authority of the Ministry of Interior. No decision has been taken in this regard by the government.

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<sup>26</sup> [Naharnet, Inmates Riot in Roumieh to Protest 'Bad' Treatment, December 8, 2012](#) ; [Naharnet, Inmates Riot at Zahle Prison as Assailants Open Fire on Warden's House, November 21, 2012](#)

The transfer of prisons' administration from the Ministry of Interior to the Ministry of Justice would, however ensure a more suitable prison administration with an appropriate and relevant trained staff. The Ministry of Defence detention center is an official prison held exclusively by the army intelligence services.

In 2009, CLDH already published a list of recommendations to improve the prison conditions and administration in Lebanon.<sup>27</sup> At the end of 2011, Ministry of Interior M. Charbel expressed the will of the Ministry to implement a series of reforms, including the increase of security personnel which would allow the Ministry, according to the Minister, to promote its presence in prisons. At the end of 2011, a national report on Lebanese prisons, published in the framework of the project "improvement of living conditions in Lebanese prisons" and implemented by the Ministry of Interior provides an overall plan to reform the prison system<sup>28</sup>. This plan includes the strengthening of human (with an increase of ISF personnel in prisons) and material resources, in collaboration with the Ministry of Justice and the United Nations Office on Drugs and Crime.

Even though this report provided in 2011 to enact a new law to regulate prisons to replace the decree of 1949, no measure had been taken in this regard in 2012. Following the escape of three detainees from the Roumieh central prison, and on the occasion of the inauguration of a court room in this prison in 2012, M. Charbel declared: "*we assigned the worst security members in Roumieh prison [...] fifty doors which were destroyed two years ago during a riot are still not repaired because two months are needed to repair each door*", testifying the slowness of any initiative in this regard.<sup>29</sup>

## **Arbitrary detention**

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Today in Lebanon, several cases of arbitrary detention persist: foreigners detained beyond the end of their sentence, detainees "stuck" in prisons for administrative or financial reasons, detainees convicted to several sentences and who should be released according to the law on cumulative sentences, detentions on the grounds of national discrimination, arrests on the grounds of sexual orientation, and non observance of procedure.

In 2011 and 2012 CLDH noticed an improvement in the coordination between the ISF and the General Security regarding the process of transferring foreign inmates who had completed their sentences in the Lebanese prisons to the General Security detention center<sup>30</sup>.

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<sup>27</sup> [CLDH report "Prisons in Lebanon: legal and humanitarian concerns", 2009](#)

<sup>28</sup> [Daily Star, Report recommends extensive prison reforms, September 2011](#)

<sup>29</sup> [Naharnet, Officers, Security Personnel Referred to Military Court as New Roumieh Courtroom Inaugurated, October 15, 2012](#)

<sup>30</sup> Non ID Lebanese, Palestinian refugees, Syrian refugees, Iraqi and Sudanese refugees, migrant workers.

If the number of foreigners having completed their sentence and remaining in prison significantly decreased in 2011 and 2012 in comparison with 2009 and 2010 (at the end of 2012, the delay for transferring them to the General Security appeared to be few days, and in any case less than a week), but still there were still in 2012 many inmates remaining in arbitrary detention at the General Security detention center for prolonged periods without legal basis.

Even if the treatment of non-ID Lebanese, Palestinian and Syrian refugees<sup>31</sup> is fairer than the one inflicted to other foreigners, cases of detention beyond the end of their sentence, even for few days, in Lebanese prisons and at the General Security detention center, have been reported in 2012.

Moreover, cases of prolonged arbitrary detention, ranging between 3 and 10 months, of Iraqi and Sudanese refugees at the General Security detention center were reported to CLDH in 2012. The legal gap in which the Iraqi and Sudanese refugees<sup>32</sup> fall depends immensely on the coordination between the UNHCR, the General Security, and the countries of resettlement. In 2012, this coordination showed tendency of improvement, but is still insufficient to protect the refugees from lengthy arbitrary detention. Migrant workers, illegal migrants and rejected asylum seekers also spend weeks or months of arbitrary detention in the General security detention center pending their repatriation. Migrant workers are often stuck in the detention center because their employers refuse to pay their plane tickets. Rejected asylum seekers have to wait for the UNHCR to notify the General security of their rejection and then, like the illegal migrants, they await identification by their embassies and the issuance of "laisser-passer" and plane tickets.

In some cases, persons are kept in detention in the Lebanese prisons for financial or administrative reasons. While the judiciary ordered their release, the latter remain arbitrarily detained for excessive periods of time beyond the end of their sentence. In the framework of its legal assistance project, CLDH identified in 2012 an inmate who had been allegedly kept for two months beyond the end of his sentence because he did not have 8 dollars to pay for his judiciary fees. In two other cases, the release papers sent by the court were not received at the prison and the inmate was arbitrarily detained for days or even months.

17 cases of inmates who could benefit from the law on cumulative sentences, according to article 205 of the criminal code, and thus eligible for release, were referred to CLDH in 2012.

The non observance of procedures is also a cause of arbitrary detention. As such, detainees arrested in security cases over the past three years have seen their rights systematically flouted; custody for an excessive period of time, torture, denial access to lawyers and relatives for the duration of interrogations, prolonged delay in bringing the accused before an investigative judge, delayed ruling...

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<sup>31</sup> Syrian refugees, p. 40

<sup>32</sup> *Ibid*

### **Assem Kakoun has been detained arbitrarily for 23 years**

Assem Kakoun was arrested on January 6, 1990 in Hammana at the house of Rustom Ghazale, head of the Syrian intelligence in Lebanon. The arrest was conducted by the Syrian security services in Lebanon, without arrest warrant. Mr. Kakoun was then taken to one of the Syrian intelligence center in Anjar, in the Bekaa. Two weeks later he was transferred to Damascus, in a facility under the Syrian services control, where he was kept for 11 months incommunicado. He was reportedly tortured in all the places of detention. On November 20, 1990, the Syrian authorities handed him over to the Lebanese judiciary police and an arrest warrant was first issued on December 14, 1990, almost one year after his arrest. During more than 7 months, he was then transferred from a detention place to another until his transfer to Roumieh prison where he is still held.

Mr. Kakoun first appeared in front of a Lebanese court accused of a murder that occurred on 25 November 1989. Mr. Kakoun was allegedly accused of this murder following a personal conflict with Mr. Ghazale but he never confessed to it, except under torture.

On February 10, 1993 Assem Kakoun was sentenced to the death penalty by Beirut criminal court, on the basis of article 549 (p) and article 72 (on weapons) and his sentence was commuted to life imprisonment, on the basis of amnesty law 84/91.

The UN working group on arbitrary detention declared on September 9, 2008 that the detention of Mr. Kakoun is arbitrary under category III of the categories applicable to the consideration of cases submitted to the Working Group.

However, at the end of 2012, Assem Kakoun was still imprisoned in Roumieh prison.

### **Torture**

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The practice of torture unfortunately persists in Lebanon; it was used by almost all forces parties to the conflict in the Lebanese war between 1975 and 1990, and continued during the years of occupation. Lebanon ratified the Convention against Torture and its Optional Protocol. However, despite Lebanon's treaty obligation, in 2012 Lebanon had not set up a National Preventive Mechanism against Torture. Allegations of torture recorded in 2012 testify that torture remains an ongoing practice in Lebanon.

The number of persons arrested in security related cases, such as terrorism or spying has significantly reduced in 2012. However, the practice of torture in common law cases was reported in 2012. In security related cases, the frequency of torture during the investigations was close to 100% and the trials of the suspects continued during the period covered by this report, mainly on the basis of their confessions extracted under torture.

In 2011 and 2012, 66% of the persons arrested and detained during these two years have been subjected to torture and/or serious ill-treatments. If torture mainly took place during the preliminary investigations by the security services, treatments and conditions in the prisons are sometimes a tantamount of torture. Victims of torture should be ensured the right to an effective remedy for the psychological and physical pain inflicted to them, as well as the right to reparation with compensation and rehabilitation. Although, in 2011 and 2012 victims of torture were not only denied remedy, but also often remained detained arbitrarily on the sole basis of extorted confessions that should have been cancelled. Ill treatments during detention also sometimes took place, particularly against vulnerable inmates.

In 2012, CLDH followed the cases of five inmates presenting serious medical conditions (neurological degeneration, severe asthma, gangrene, and AIDS). Instead of benefitting of adequate care and prison conditions, they were subjected to discrimination (particularly AIDS patients) and harmful environment putting their health at high risk of deterioration.

In 2012, civil society associations continued to condemn the practice of torture, to implement lobbying and awareness activities, to support the victims of torture<sup>33</sup>, despite the intimidations they face.<sup>34</sup>

In 2012, a group of representatives of the Parliamentary Human rights commission, of the Ministries of Justice, Interior and Defense, Human rights experts of NGOs including CLDH, managed to submit to the Lebanese Parliament two draft laws; the first one aims at criminalizing torture and the second one at establishing a national Human rights institute including a National Prevention Mechanism of the practice of torture. The two draft laws are now pending examination and adoption by the Parliament.

On June 26, 2012, on the occasion of the International Day in support of victims of torture, CLDH organized an event entitled "Torture is a crime", with four other NGOs, with the aim to incite the government to criminalize torture and to definitely prohibit this practice.<sup>35</sup> The event included open discussions and the screening of movies produced by human rights association, with the participation of victims of torture who attended the event to share their testimonies.<sup>36</sup>

***Press release - NGOs united against torture: torture is a crime!***

Beirut, June 26, 2012

To commemorate the International Day in Support of Victims of Torture, the signatories of this statement call on the Lebanese authorities to make every effort to banish the practice of torture in Lebanon.

According to the Convention against Torture, ratified by Lebanon in 2000, the term "torture" means 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.

Lebanon is failing to eradicate the practice of torture as it is still not complying with its obligations under the UN Convention against Torture. For example, torture has not been criminalized in Lebanese law and Lebanon is more than 10 years late in submitting its initial report on the implementation of the Convention in the country to the Committee against Torture.

<sup>33</sup> In 2012, Centre Nassim for the rehabilitation of victims of torture, a CLDH project, assisted 56 victims of torture.

<sup>34</sup> Freedoms of expression and opinion, p.45

<sup>35</sup> Iloubnan, *In Beirut, NGOs united against torture*, June 28, 2012

<sup>36</sup> <http://lebanon-june-26.blogspot.fr>

The abolition of torture implies the establishment of oversight mechanisms over the actions of security services in all places of detention and prisons. Oversight mechanisms include the establishment of a National Preventive Mechanism, as described in the Optional Protocol to the Convention against Torture and other cruel, Inhuman and degrading treatment or punishment ratified by Lebanon on December 22nd 2008.

According to many reports, most Lebanese security services continue to resort to torture and degrading treatment during interrogation and detention of suspects.

A public event demanding the criminalization of torture is being held today at 4:00 p.m. at the initiative of AJEM (Association Justice and Mercy), Alef-act for human rights, the Alkarama Foundation, CLDH (Lebanese Center for Human Rights) and Restart Center for Rehabilitation of Victims of Violence and Torture. The event will bring to an end a month of campaign activities, during which individuals and organizations were called to take a stand against torture in Lebanon by participating in a photo-petition, visible at the following address: <http://lebanon-june-26.blogspot.com>

Signatories:

- Ajem (Association Justice and Mercy)
- Alef – act for human rights
- Alkarama Foundation
- CLDH (Lebanese Center for Human Rights)
- Restart Center for Rehabilitation of Victims of Violence and Torture

## **ENFORCED DISAPPEARANCES & INCOMMUNICADO DETENTION**

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### **Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment**<sup>37</sup>

*The UN Commission on Human Rights has stated that 'prolonged incommunicado detention can in itself constitute a form of cruel, inhuman or degrading treatment.*

### **International Covenant on Civil and Political Rights**

*"Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life." – Article 6.1*

*"No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation. "– Article 7*

*"Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law." – Article 9.1*

*"Everyone shall have the right to recognition everywhere as a person before the law." – Article 16.*

The crime of enforced disappearance constitutes a violation of the right to an acknowledged legal status. Any person who is a direct victim of enforced disappearance is removed from the protection of the law, is denied its legal status and, therefore his/her rights to have rights.

### **General amnesty law, 1991**<sup>38</sup>

*"The amnesty will become null and void for the crimes mentioned in this article if these crimes are perpetrated, reproduced or uninterrupted, or committed again by the author of the crime after the law comes into effect" - Article 2.3*<sup>39</sup>

### **International Convention for the Protection of All Persons from Enforced Disappearance**<sup>40</sup>

On February 6, 2007, Lebanon signed the International Convention for the Protection of All Persons from Enforced Disappearance. Even though five years have passed and no ratification process has been initiated, it is however expected that Lebanon acts in the spirit of the Convention.

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<sup>37</sup> Adopted by the General Assembly of the United Nations on 10 December 1984 (resolution 39/46). The Convention entered into force on 26 June 1987 after it had been ratified by 20 States.

<sup>38</sup> General Amnesty Law n°84/91, promulgated on August 26, 1991 by the Lebanese government.

<sup>39</sup> Article 2.3f of the law n°84, August 26, 1991.

<sup>40</sup> Available at: <http://www.ohchr.org/EN/HRBodies/CED/Pages/ConventionCED.aspx>

Enforced disappearances were considered as a weapon of war in Lebanon during the Lebanese war 1975 - 1990. Lebanese and Palestinian militias, as well as the Israeli and Syrian armies carried out enforced disappearances as a bargaining chip for ransom, to exchange hostages, while terrorizing the opponents. Victims of enforced disappearances were arrested or detained by militias or by the army acting on behalf of a State, which refused to reveal the fate of the victims. In 1992, based on sworn statements by the families at police stations, the Lebanese government announced that 17,415 people went missing during the civil war from 1975 to 1990. Since that date, the number of "17,000" disappeared has become conventionally accepted.<sup>41</sup> Some people remained at the hands of Israelis or detained in South Lebanon for years, until the release of 150 of them in 2000. The release of 121 Lebanese by Syria at the end of February 1998, and forty other detainees at the end of 2000 has revived the question of the presence of Lebanese political prisoners in Syrian prisons.<sup>42</sup> In July 2002, the Syrian Minister of Interior at the time, Ali Hammoud, on instruction of President Assad, welcomed a delegation of fifty families in Damascus. This visit, organized by SOLIDA/CLDH and SOLIDE constituted an essential step in this fight. Today this practice has declined but many Lebanese families remain without any information on their loved ones, waiting for decades, without knowing whether the missing person is alive or buried in mass graves in Lebanon or in neighboring countries. Moreover, enforced disappearance is a continuous crime and families are entitled to file a complaint despite the amnesty law promulgated in 1991 for all crimes committed during the civil war.

Many families and civil society organizations advocate for their right to know what happened to their loved ones, whether they are dead or alive. Since April 11, 2005, the families of the Lebanese detainees in Syria, in coordination with SOLIDE are holding a permanent sit-in in Gebran Khalil Gebran garden, in front of the United Nations building to ask the Lebanese state and the international community to find a fair solution to this problem.

Years after the end of the conflict and while the Israeli and Syrian armies withdrew from Lebanon, no serious investigation has been conducted to clarify the fate of thousands of people. The official commissions of inquiry successively set up to know the fate of the disappeared have all failed.

In 2012, the families and relatives of the disappeared, with the support of civil society organizations, have continued to lobby the Lebanese authorities, and to carry out awareness activities on this issue among the Lebanese society.

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<sup>41</sup> Amnesty International, *Never forgotten – Lebanon's Missing people*, April 2011

<sup>42</sup> [ACAT awareness campaign, Liban - Disparitions forcées : l'interminable attente](#), based on CLDH report on enforced disappearances published on February 21, 2008.



## Legal improvements

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Since 2009, CLDH has been supporting a draft decree to establish an "*independent national commission for the victims of enforced disappearances and missings from the war*", in collaboration with SOLIDE and other civil society organizations. This decree was submitted and approved by the State Council and transmitted to the Government by the Minister of Justice Cortbaoui, in September 2012.

In October 2012, the Council of Ministers decided to establish a ministerial committee to study the decree<sup>43</sup>. On October 12, CLDH, SOLIDE and other civil society organizations held a press conference at the sit-in of the families of the Lebanese detainees in Syria in front of the ESCWA building, to urge the Government to adopt the decree.<sup>44</sup> At the end of 2012, the adoption of the decree by the government was still pending.

A draft law was launched in 2012, and presented on the occasion of a roundtable and a press conference held in February. This draft law, which is based on the right to know of the families of the disappeared, was developed by civil society and international organizations, in the framework of a project entitled "Lebanon's unaddressed legacy: the missing and the families' right to know."

On the other hand, on October 13, 2011, MP Hikmat Dib presented to the parliament a draft law on the right to know of the families of victims of enforced disappearances, prepared with some NGOs; at the end of 2012, the draft law had still not been added to the Parliament's agenda.

## Release

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After more than 27 years of detention in Syria, Yacoub Chamoun publicly announced his release, and return to Lebanon, in August 2012, reaffirming the detention of Lebanese in Syrian prisons<sup>45</sup>. To date, a list of 600 names of Lebanese detained in Syria has been established.

## Collection of Information

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In April 2012, upon the request of the families, the ICRC started to collect detailed information on the persons who went missing. In August 2012, the ICRC called on families of people who went missing to get in touch with its delegation in order to provide information on the missing relatives.

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<sup>43</sup> [L'Orient le jour – Lebanese detainees in Syria – Cortbawi project, October 4 2012](#)

<sup>44</sup> [Daily Star, Groups urge formation of committee for missing Lebanese, October 2012](#)

<sup>45</sup> [Naharnet, Political Prisoner Returns after 27 Years, Confirms More Lebanese Held in Syria, August 28, 2012](#)

The data collected should allow in the future providing answers sought by the families about what happened to their loved ones.<sup>46</sup>

## **Mobilizations**

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In 2012, many demonstrations, awareness and lobbying activities were organized by families and relatives of the disappeared and civil society organizations. Thus, on the occasion of Mother's Day (March 21, 2012), of the 7<sup>th</sup> anniversary of the installation of the tent of victims of enforced disappearances (April 11, 2012), of the 37<sup>th</sup> commemoration of the civil war in Lebanon (April 13, 2012), of the International Day of the disappeared (August 2012), many rallies and press conferences were organized.

In November 2012 was launched the campaign "Enough Waiting", focusing on the waiting of the families, by the Association Act for the Disappeared, SOLIDE and the Committee of the parents of the kidnapped and disappeared in Lebanon.

In March 2012, Wadih Al-Asmar, CLDH Secretary General, participated as an expert in a conference organized by the UN Working Group on Enforced Disappearance on "enforced Disappearances and the gender approach".

## **Kidnappings and counter- kidnappings of Lebanese and Syrian nationals.**

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Since the beginning of the conflict in Syria, waves of kidnappings of Syrian nationals have taken place in Lebanon in retaliation of the kidnapping of Lebanese nationals in Syria.<sup>47</sup>

Following the kidnapping of eleven Lebanese nationals on a pilgrimage bus on May 22 in the region of Aleppo in Syria, many Syrians have been attacked in various parts of Lebanon.

In June 2012, Suleiman Mohammed al-Ahmad, a Lebanese national, was kidnapped, transferred and illegally detained in Syria. He was released the same month, following a wave of kidnappings in Lebanon organized in retaliation by his relatives. On August 15, the kidnapping of a dozen Syrian nationals and a Turkish businessman, Aydin Tufan was claimed by members of the Al Moqdad family in Lebanon, as a retaliation for the kidnapping in Syria of one of their relatives, Hassan Al Moqdad on August 13, by a group claiming to be part of the Free Syrian Army. The next day, another group also claimed on TV having kidnapped Syrian nationals in response to the kidnapping of H. Al Moqdad, and that they would kidnap any Syrian supporting the opposition or the Free Syrian Army.

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<sup>46</sup> [Lebanon: ICRC calls for data on missing persons, August 28, 2012](#)

<sup>47</sup> [Le Monde, The Syrian crisis in Lebanon, where "a war of kidnappings" is feared, August 16, 2012](#)

## Joseph Sader

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Joseph Sader, a Lebanese citizen, was kidnapped in February 2009 by several men on his way from his home to his workplace in South Beirut beside the airport. A car allegedly stopped beside him, and two plainclothes men reportedly went out of it and forced him into the car that was driven by a third man. Joseph Sader has not been seen since his abduction, and has allegedly not been allowed to contact his family nor any other person. Since then a number of actions have been taken by the Lebanese civil society organizations as well as international NGOs. In January 2010, the Minister of Interior replied to a letter from Amnesty International about this case and stated that the Lebanese authorities were continuing their investigation into this abduction, that the file was being addressed by the relevant judicial authorities and that the family had been ensured that the authorities were giving the highest importance to solving the case.<sup>48</sup> In 2012, the daughter of Joseph Sader, Sophie, urged the Lebanese authorities to shed light on the fate of her father.<sup>49</sup>

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<sup>48</sup> Amnesty International - *Lebanon: Release Joseph Sader, abducted a year ago today.*

<sup>49</sup> [L'Orient le jour, Sophie Joseph Sader, August 31, 2012](#)

# WOMEN'S RIGHTS

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## **Universal Declaration of Human rights**

*"All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood" - Article 1*

*"Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status" - Article 2*

*"All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination."- Article 7*

*"Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution. 2. Marriage shall be entered into only with the free and full consent of the intending spouses. 3. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State" -.Article 16*

*"Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control. 2. Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection." - Article 25*

## **Convention on the Elimination of All Forms of Discrimination against Women<sup>50</sup>**

Lebanon ratified the Convention on the elimination of all forms of discrimination against women in 1997, although with reservations on the following articles:

*"States Parties shall grant women equal rights with men with respect to the nationality of their children." - Article 9. 2*

*"States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women: c) The same rights and responsibilities during marriage and at its dissolution; d) The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases the interests of the children shall be paramount;*

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<sup>50</sup> Adopted in 1979 by the UN General and ratified by Lebanon on April 16, 1997

*(g) The same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation" -Article 16. 1*

### **International Covenant on Civil and Political Rights**

*"Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status." - Article 2.1*

*"The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant." - Article 3*

*"All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. The press and the public may be excluded from all or part of a trial for reasons of morals, public order (ordre public) or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice; but any judgment rendered in a criminal case or in a suit at law shall be made public except where the interest of juvenile persons otherwise requires or the proceedings concern matrimonial disputes or the guardianship of children." - Article 14.1*

*"Everyone shall have the right to recognition everywhere as a person before the law." - Article 16*

*"Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching." - Article 18-1*

*"The family is the natural and fundamental group unit of society and is entitled to protection by society and the State. 2. The right of men and women of marriageable age to marry and to found a family shall be recognized. 3. No marriage shall be entered into without the free and full consent of the intending spouses. 4. States Parties to the present Covenant shall take appropriate steps to ensure equality of rights and responsibilities of spouses as to marriage, during marriage and at its dissolution. In the case of dissolution, provision shall be made for the necessary protection of any children." - Article 23-1*

*"All 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." - Article 26.*

The few legislative developments that took place in 2011 in terms of women's rights unfortunately did not have any reflections in 2012. Thus, a legislative development took place in September 2011, with an amendment of the Labour Code exempting foreign husbands and children of Lebanese women from many restrictions placed on foreign workers. This amendment grants them free residence permit for three years, without any prior obligation to have a job. They will be able to take an employment of their choice and get back the deposit of one million and a half Lebanese pounds they have to pay to the authorities at the beginning of the procedure to obtain their work permit.<sup>51</sup> On the other hand, in August 2011, the parliament annulled article 562 of the Criminal Code, which mitigated the sentence of people who claim they killed or injured their wife, daughter, or other relative to protect the family "honor".<sup>52</sup>

In 2012, Lebanese women continued to be victims of discrimination both in law and in practice, as well as gender-based violence, including within the family. In 2012, despite the establishment of a ministerial steering committee to study a draft law pertaining to the transmission of nationality, no law has been passed in terms of equality or protection from domestic violence. The Lebanese civil society continued to campaign to promote women's rights in Lebanon.

### **Discriminations in terms of citizenship, personal status, and in the legislation**

One of the major issues related to women's rights in Lebanon is the transmission of the Lebanese nationality by women to their foreign husbands and children. In accordance with the law in force, adopted in 1925<sup>53</sup>, men can transmit their Lebanese nationality to their foreign wives and children one year after the registration of their marriage, but prohibits Lebanese women married to foreigners to do the same. If a Lebanese woman has a child with a foreigner, the fact that she is unable to transmit her nationality deprives the child of the rights reserved to the Lebanese, including the permanent residence in Lebanon, and may even deprive the child of any nationality if the father is stateless. One of the pretexts used by the government not to amend the law comes from the refusal to naturalize Palestinian refugees by marrying Lebanese women. Yet the Palestinian wife of a Lebanese national is granted the right to transmit the Lebanese nationality.

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<sup>51</sup> [Al Akhbar, Labor Rights Granted to Families of Lebanese Women, October 2, 2011](#)

<sup>52</sup> [HRW, Lebanon : Law Reform Targets 'Honor' Crimes, August 11, 2011](#)

<sup>53</sup> Law on nationality N° 15, January 19, 1925

Following pressure of the civil society, a first draft law was presented to the Parliament in 2005, to grant equal rights to women regarding the transmission of nationality. The latest draft law was submitted on July 2011, and transferred for the first time to the Cabinet in March 2012, leading to the establishment of a ministerial committee, which still had not met at the end of 2012. The Lebanese criminal code explicitly discriminates against women by imposing different penalties for adultery on men and women. A married woman who has an extramarital affair can be imprisoned from three months to two years, whereas the punishment for the same crime for a man is one month to one year. A married man can only be tried for adultery if he engages in extramarital sex in the conjugal home, or if he has a “stable” extramarital relationship.<sup>54</sup>

In Lebanon, confessional laws regulate the personal status, reflecting inequalities between men and women, particularly in terms of dissolution of marriage and child custody.

### **Violence against women**

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Domestic violence is not criminalized in the Lebanese criminal code.

A coalition of civil society organizations working on women's rights protection, and coordinated by the association KAFA ("Enough"), started drafting a law in 2008, with the aim to reform the legislation on domestic violence. This draft law would criminalize all forms of domestic violence, would establish specialized family violence units within the Internal security forces, a legal framework allowing women to file complaints against the author of violence. The draft law also requires the perpetrators to compensate victims financially by providing the victim and children safe housing and paying for the medical expenses incurred from the violence and for alimony. The draft law was approved by the Lebanese government in 2012, although the initial text has been changed by including the death penalty among the sentences, and an article on the supremacy of the confessional laws, before being submitted to a parliamentary commission composed of 8 members (7 men and 1 woman).

However, civil society organizations remained concerned in 2012 about a possible dilution of the text of the draft law in its review by the Commission, in particular as regards the definition of marital rape. The Lebanese criminal code explicitly excludes marital rape from the definition of rape; rape of a virgin is potentially subject only to a fine. If the rapist marries his victim after the crime, he is then exempted by law. In 2011, amendments to the Criminal Code in order to criminalize marital rape and abolish the article allowing an exemption from the perpetrator who marries his victim had been submitted to the Parliament.<sup>55</sup> This text had not yet been adopted at the end of 2012.

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<sup>54</sup> Criminal code, Articles 487, 488 and 489.

<sup>55</sup> Daily Star, *Geagea, Keyrouz move to make marital rape illegal*, October 13, 2011.

## Lebanese civil society

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In 2012, civil society organizations continued their lobbying and denunciation actions towards the inaction of the Lebanese authorities regarding discriminations and violence against women.

Thus, the campaign "My nationality is a right for me and my family" continued throughout the year to push for a reform of the nationality law. In July 2012, a sit-in was organized by this movement to denounce the failure of the members of the ministerial commission to meet in order to examine the amendment to the nationality law.<sup>56</sup>

Among the numerous actions of the civil society, in March 2012, a coalition of thirty organizations organized a march with a list of 10 demands, including the adoption of the law on domestic violence.<sup>57</sup>

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<sup>56</sup> L'Orient le jour, *Sit-in for the right for women to transmit their nationality*, July 21, 2012

<sup>57</sup> [Daily Star, NGOs hold several marches for women's rights, March 27, 2012.](#)



## MIGRANT WORKERS IN LEBANON

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Lebanon voted in favor of the ILO Convention No. 189 on decent work for domestic workers, adopted in June 2011, but has not yet taken any steps to ratify or comply with the same. The situation of migrant workers in Lebanon reflects a multitude of human rights violations, enshrined in Conventions, Covenants and international treaties enforceable in Lebanon.

There are in Lebanon an estimated number of 200,000 (50,000 more than in 2006) migrant domestic workers, most of them from Sri Lanka, Ethiopia, Philippines, Nepal and Madagascar. These women are often victims of exploitation, non-payment of wages, excessive working hours, verbal harassment, confinement, confiscation of their passports, physical and sexual abuses, and sometimes even torture.

Migrant domestic workers do not fall under the labor law, and are subject to restrictive immigration rules based on the "kafala" system, which expose them to the risk of being exploited, and makes it difficult to leave an abusive employer. Moreover, domestic employees who denounce their employers for abuse are confronted to a hostile judiciary system. The only solution for most domestic migrant workers is to runaway from their work place, which expose them to arrest and arbitrary detention, or even to the threat of being deported to their country of origin<sup>58</sup>, which sometimes leads to suicide. Following several reports denouncing this situation, some countries such as Ethiopia, decided to ban its citizens from seeking jobs in Lebanon as domestic workers.<sup>59</sup>

Concerning male migrant workers, Syrian or Egyptian for the majority, most of them are working in construction and manual work. Also excluded from labor law, migrant workers are also subject to the system of "kafala" which exposes them to exploitation and abuse by employers. Migrant workers suffer from poor working conditions, deplorable housing conditions, racism and stigmatization, exploitation and deprivation of their basic rights without any legal recourse<sup>60</sup>. Waves of mass arrests of migrant workers by the ISF and the Lebanese army are often reported. Suicides are also common among migrant workers in Lebanon, which are never subjected to investigation.

Despite some minor advancement regarding a unified working contract and the "kafala" system, new cases of suicides and violence were unfortunately reported in 2012. The Lebanese civil society continued throughout the year to assist migrant workers, and to carry out lobbying actions towards the Lebanese authorities, and awareness activities among the Lebanese society. Following her visit to Lebanon, the Special rapporteur on contemporary forms of slavery made some recommendations in 2012 which all confirm the gravity of the situation of thousands domestic workers in Lebanon, and the urgent need to take action.

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<sup>58</sup> [CLDH report "Prisons in Lebanon: legal and humanitarian concerns", 2009](#)

<sup>59</sup> Culture of racism in Lebanon, 2009-2010, COSV Coordination Committee of the Organizations for Voluntary Service

<sup>60</sup> Al Akhbar, *Migrant House: No Space for Abuse*, October 7, 2011

On March 8, 2012, the Lebanese TV Channel LBCI broadcasted a video filmed on February 24 by a passer-by, showing a recruiting agent beating Alem Dechasa-Desisa in front of the Ethiopian consulate in Beirut. Despite her resistance, the agent and another man forced her into a car. LBCI identified the man who was beating the young woman as Ali Mahfouz, brother of the person in charge of the recruitment agency through which Alem Dechasa-Desisa came to Lebanon. Ali Mahfouz accepted to talk on TV and stated that his brother's agency was trying to repatriate the woman who suffered from mental health issues. The police arrived shortly after the incident, the car was still there, and took Alem Dechasa-Desisa to a detention center. The police officers transferred her two days later in a medical institution, but did not arrest the men who bet her. Forced to travel according to the Lebanese law on foreigners, even though she had deeply fallen into debt to come work to Lebanon, Alem Dechasa-Desisa committed suicide at Deir al-Saleeb psychiatric hospital, on March 14.<sup>61</sup>

In June 2012, a domestic migrant worker from Bangladesh was found hanged in her recruitment agency, few days after she arrived to Lebanon.<sup>62</sup>

***CLDH Press release***

***We are all Ali Mahfouz!***

On March 8, 2012, the LBCI television channel broadcast shocking footage of the young Ethiopian woman, Alem Dechasa-Desisa, as she lays on the ground in front of her country's embassy, weeping and saying that she does not want to return to Ethiopia. A man is then filmed dragging her forcefully into a car. We later learned that the woman in question had been admitted to a psychiatric hospital, and that Ali Mahfouz, her employer, had been charged. Finally, we learned that she had committed suicide on March 14 by hanging herself.

Much has been written about this tragedy on social networks and in the press. We cannot overstate or repeat it enough: The law is at fault, the hiring agencies are slave-traders, and the employers are often abusers. All these facts are endlessly repeated, to the point where we have lost our ability to distance ourselves and judge the practices of a civil society that supposedly can effect change.

We, the civil society, could have saved Alem. We are all equally as responsible for her death as Ali Mahfouz is!

Because Alem did not die from the beatings of Ali Mahfouz. Nor was she thrown off of a balcony by her employer. Alem chose to commit suicide because no solution was ever offered to her.

She had indebted herself to come and work in Lebanon, and her expulsion (the only solution offered to her) would have meant a return to her country with debts that are simply unbearable for an Ethiopian family: The family would not have been able to send the children to school, and the children could very well have suffered from malnutrition. By committing suicide, Alem canceled out her debts. Who would not have made that very same choice? It's probably painful, but this is not a choice for a mother to make because the answer is clear: She'd rather die than to see her children die.

Yet, even if civil society had vociferously demanded justice for Alem, no one would have offered her a solution: Alem could have found another employer in Lebanon, or the NGOs could have raised funds to pay off her debt before she returns to her country. We certainly should have fought for her to stay in Lebanon until a real solution is found for her! Instead, we talked, and talked, and then talked some more about who is responsible, about what charges to bring, what reforms to make... and while we were talking, we forgot that a woman in a hospital faced no other choice but death.

We killed her. Alem, we ask for your forgiveness!

<sup>61</sup> NOW Lebanon, *Ethiopian domestic worker commits suicide*, March 14, 2012

<sup>62</sup> [Daily Star, Bangladeshi domestic worker in apparent suicide north of Beirut, June 13, 2012.](#)

**CLDH Press release**

**An Ethiopian domestic worker dies while trying to flee her employer's house  
What investigation?**

On August 9, 2012, a few media reported the death of Alani Silvo, an Ethiopian domestic worker aged 24 who fell to her death while trying to escape with a rope from her employers' apartment in Beirut. CLDH team went to the scene and noted that in spite of the circumstances, no measure had been taken to consider the incident as a potential crime: the place had not been secured and the employers of Ms. Silvo were circulating freely in the neighborhood.

However it seems that if a person tries to escape an apartment located at the 12th floor of a building with a rope, it suggests that he/she is being held there against his/her will, and potentially abused.

Article 569 of the Lebanese criminal code prescribes a prison sentence for the crime of unlawful confinement, and life imprisonment in case the deprivation of liberty lasted more than a month and/or if the person deprived of liberty was subjected to physical or psychological torture. The crime is considered as aggravated where the death of a human being results, as a consequence of fear or any other cause, in relation with the deprivation of liberty.

Does the Lebanese Justice not consider migrant domestic workers as human beings?

CLDH demands the Justice to address the deaths of migrant domestic workers without any discrimination: their death should be considered as suspicious, like the death of any Lebanese, and the employers immediately arrested in case of alleged sequestration, ill-treatments or any other crime.

Beirut, August 14, 2012

A standard contract put forward in 2008, following consultations between the Ministry of Labour and several civil society organizations provided several advancements: daily working hours limited to ten hours with nine continuous hours of rest, a weekly day off, the hand over of pay slips and the setting of a minimum wage. A draft law, which incorporated many of these proposals, was submitted to Parliament in 2011. The draft law provided an annual paid leave of six days and a return plane ticket to her country of origin. The employee also had the right under this draft law to breach the contract if not paid for two consecutive months or in case of abuse by her employers. In case of a trial against her employer, the domestic worker could also benefit from the Minister's inspectors to investigate on the working conditions.

However, the draft law submitted to Parliament did not address several issues, such as the payment of an annual plane ticket in case of a breach of the contract on behalf of the domestic migrant worker. The employee still does not have the right to leave her employer without any justification. Finally, even though it is mentioned that the employee should have a space for resting, it is still not specified that this space should be isolated from the rest of the house. At the end of 2012, the draft law was still not adopted. In July 2012, the ILO, the Ministry of Labor, the General Security, the CGTL, agencies and civil society organizations, met in order to discuss a contract drafted by the IOL (21 articles), in compliance with international standards, pending a law regulating domestic work in Lebanon.<sup>63</sup>

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<sup>63</sup> [L'Orient le jour, Decent draft contract for domestic migrant workers, July 2012](#)

In January 2012, the Minister of Labor, Charbel Nahhas, announced that he would look at abolishing the “kafala” system. Following his resignation, this issue stayed pending. In May 2012, the association KAFA submitted a draft law to replace this discriminatory system, which was supported by the Ministry of Labor. The "kafala" system constitutes a violation of the right of association and freedom of movement of workers, and does not allow them to seek redress. The draft law proposed to withdraw this system from the law and gives recommendations for a complete review of the recruitment process of domestic migrant workers. This would allow domestic migrant workers to gain more rights and would give a better solution for employers who often consider they are obliged to limit the rights of their employees by this system.

In October 2012, Mrs. Shahinian, Special Rapporteur on contemporary forms of slavery visited Lebanon, at the invitation of the government. Her visit focused on the working conditions of migrant domestic workers and modern slavery. Urging the Lebanese government to enact legislation to protect domestic workers in the country, stressing that without legal protection some of them would end up living in domestic servitude. The Special Rapporteur also welcomed the draft law to protect migrant workers, and stressed that this should be made a priority and advised that this project be part of a separated labor law, specifically dedicated to migrant workers needs. She also stressed the fact that migrant domestic workers provide an indispensable contribution to society, which allows many Lebanese women to leave their homes and gain economic independence. Following the suicide of two domestic workers in March and June 2012, Mrs. Shahinian urged the Lebanese government to carry out a full investigation into the circumstances which led to their death.<sup>64</sup>

Several Lebanese civil society organizations condemn the abuses suffered by domestic migrant workers, carry out lobbying actions, assist victims, and raise awareness among the Lebanese society. As such, a parade was organized by several Lebanese civil society associations in April 2012, between Dora and Beirut, with the participation of hundreds of migrants from Ethiopia, Madagascar, Nepal, Philippines, Sri Lanka... as well as human rights activists and some Lebanese citizens. The march lasted two hours, after which all participants were invited to taste African and Asian dishes, and to discover traditional dances.

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<sup>64</sup> [Daily Star, U.N. expert on slavery calls on government to protect domestic workers, October 18, 2011](#)

# DISCRIMINATIONS

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## **Universal Declaration of Human Rights**

*"All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination." - Article 7*

## **International Covenant on Civil and Political Rights**

*"All 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." – Article 26*

## **Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment**

### **Principles of Medical Ethics relevant to the Role of Health Personnel, particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment<sup>65</sup>**

*"It is a contravention of medical ethics for health personnel, particularly physicians:*  
*(a) To apply their knowledge and skills in order to assist in the interrogation of prisoners and detainees in a manner that may adversely affect the physical or mental health or condition of such prisoners or detainees and which is not in accordance with the relevant international instruments; (b) To certify, or to participate in the certification of, the fitness of prisoners or detainees for any form of treatment or punishment that may adversely affect their physical or mental health and which is not in accordance with the relevant international instruments, or to participate in any way in the infliction of any such treatment or punishment which is not in accordance with the relevant international instruments." - Principle 4*

## **Criminal code**

*"All sexual intercourses contradicting to nature are punished from 3 months up to 1 year, additionally to a penalty between 200 and 1,000,000 Lebanese Liras" - Article 534*

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<sup>65</sup> [Adopted by General Assembly resolution 37/194 of 18 December 1982](#)

## Racism

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Migrant domestic workers and migrant workers are victims of overtly racist practices such as the forbidden access to swimming pools and some private beaches, or even beatings.

In 2012, several private beaches have been called into question in videos filmed by members of the Anti racism movement, witnessing discriminatory practices – for example, migrant domestic workers who are allowed to enter for free to stay with the children of their employers, they are nevertheless not allowed to swim – despite a circular issued by the Minister of Tourism. Few months earlier, Fadi Abboud issued a circular to all beach clubs in April informing them that *“equal treatment is to be provided to all customers without discrimination based on race, nationality or disability.”*<sup>66</sup>

In October 2012, a racially motivated incident targeting migrant workers at Beirut airport was reported by a passenger who posted the event on his Facebook page and Twitter. At the departure gate, an MEA employee allegedly ordered Filipino and Nepalese customers over the loudspeaker to be quiet and laughing at them in a mocking way. The passenger who witnessed the scene formally complained to Skyteam. The airlines declared having opened an investigation on this case.<sup>67</sup>

During the night of October 7, 2012, the Lebanese army raided in Achrafieh, and beat more than 70 foreigners, mostly Syrian nationals, in two buildings of the area. HRW called for an investigation to prosecute any army and intelligence officials responsible for the beating and serious abuse of the workers. The Army would have justified this incident, claiming it received several complaints from the surrounding neighborhoods that the workers were displaying "public immorality" by swearing, stealing, and harassing the Lebanese. The Army statement said 11 men had been arrested and referred for investigation, highlighting the "violent resistance" of the workers, and also regretted "any security act that might target some innocent workers". According to the testimonies collected by HRW, no questions were asked to the workers on such matters, and the workers opened the doors of their homes without any resistance.<sup>68</sup>

Article 534 of the Lebanese Criminal Code prohibits having sexual relations that are "contradicting the laws of nature", which is punishable by up to a year in prison. 2012 mainly witnessed a public debate on the "tests of shame".

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<sup>66</sup> [Daily Star, St. George club in hot water over discrimination, June 30, 2012](#)

<sup>67</sup> [Daily Star, MEA probes complaint of racism at airport, October 2012](#)

<sup>68</sup> [Naharnet, Army Rejects 'Insults' after HRW Says Troops Acted 'Like a Mob' in Migrant Workers Raid, October 10, 2012](#)

## Tests of shame

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On the occasion of a press conference, on May 23, 2012, the association Legal Agenda launched the debate on anal and vaginal tests, called "tests of shame", on men suspected homosexuals and women suspected prostitutes.

Two months after this conference, the Internal Security Forces vice squad arrested 36 men during the July 28 raid on a movie theater suspected of screening pornographic movies. The men were then transferred to Hbeich police station, where they were subjected to anal examinations conducted by forensic doctors on orders of the public prosecutor.<sup>69</sup>

The revelations on the "tests of shame" generated many reactions of indignation. A demonstration was organized by the association "Helem" in August, to protest against these practices and support the men and women subjected to these tests. The Lebanese Doctor's Syndicate also denounced these tests, stating that they are medically and scientifically useless and constitute a form of torture. The Syndicate issued a directive in August 2012, calling the doctors not to do these examinations.

Following the numerous publications, reactions on social media, and demonstrations, Minister of Justice Cortbaoui, in an interview with Al-Akhbar about the incident, declared "*he had sent a memo two months ago to the attorney general urging him to halt random rectal examination procedures, after the issue was raised by human rights organizations*"<sup>70</sup>

In August 2012, 2 Lebanese suspected homosexuals were arrested and transferred to Hobeish police station.<sup>71</sup>

Civil society associations, such as Helem and more recently Rainbow, continued in 2012 to document violations, to carry out lobbying and awareness activities on the issue. Thus, on the occasion of the International day against homophobia in June 2012, the association Helem<sup>72</sup> organized a series of activities under the slogan "*I vote too... the law must protect me*", and the association Rainbow launched a posters campaign to raise awareness among the Lebanese society.

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<sup>69</sup> [HRW Annual report 2013, Lebanon, "Lebanon: Stop "Tests of Shame", August 2012](#)

<sup>70</sup> [Al Akhbar, The Dark Side of Lebanon's Antiquated Sex Law, August 2012](#)

<sup>71</sup> Daily Star, *Two Lebanese detained on suspicion of engaging in homosexual acts*, August 2012

<sup>72</sup> Helem website: <http://helem.net/>



## REFUGEES IN LEBANON

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Due to its geographical location and sometimes for economic and political reasons location, Lebanon has always been an escape for refugees from the Middle East, mainly for Palestinians, but also for Iraqis, Sudanese and more recently for Syrian refugees who have flocked by thousands since the beginning of the revolt against the regime of President Bashar al-Assad.

### Syrian refugees

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Since the outset of the conflict in Syria in 2011, thousands of Syrians have fled to Lebanon. Hosted by families, in public buildings such as schools, or in tents, the Syrian refugees are exposed to extremely harsh living conditions, and supported by the Lebanese government in a precarious way. Many international and local organizations have continued in 2012 to provide humanitarian assistance adapted to the growing needs of thousands of Syrian refugees.<sup>73</sup>

At the end of 2012, among those who fled Syria, there were 13,000 Palestinian refugees from Syria, who fled Yarmouk camp near Damascus. The UNRWA is providing assistance to these refugees, in coordination with the UNHCR. In December 2012, 129,106 Syrian refugees were registered with the UNHCR, and 45,936 were awaiting registration.<sup>74</sup> The majority of them are located in North Lebanon, the Bekaa and finally in Beirut and South Lebanon. However, the UNHCR registration process does not give refugees any proper legal status, taking into consideration that Lebanon does not recognize the refugee status. This step gives them access to humanitarian and social assistance, yet they remain at risk of detention or deportation.

### Distribution

The assistance provided to the Syrian refugees notably includes the distribution of food, blankets and clothing. At the end of 2012, more than 600,000 relief items had been distributed by several international and local organizations<sup>75</sup>, such as food vouchers. However, frauds have been reported in this regard, especially with some shopkeepers raising prices for refugees purchasing items with the vouchers.

### Children

At the end of 2012, over 550 Syrian babies were born in Lebanon since the outset of the crisis. Awareness campaigns and counseling sessions were launched by the UNHCR to alert the parents about the need to register their children at birth to entitle them to the Syrian nationality. With a high rate of children less than 12 years old among the Syrian refugees, over 10,000 Syrian refugee children were enrolled in the Lebanese public school system at the end of 2012.

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<sup>73</sup> Daily Star, *Aid workers ready for refugee increase*, March 7, 2012

<sup>74</sup> [UNHCR Official Website](#)

<sup>75</sup> FAO, DRC, World Vision, UNICEF, NRC, Shield and Caritas Migrant



The UNHCR, UNICEF, Caritas, and Save the Children work with the Ministry of Education and Higher Education to ensure all refugee children can proceed with their schooling. Some cases of Syrian children being bullied at school have been reported and denounced by civil society organizations.

### **Psycho-social and medical assistance**

Most Syrian refugees, who fled fighting, lost their homes, their communities and their families, need psychological support and medical care. Programs of psycho-social support were implemented, notably by the organization International Mercy Corps. At the end of the year, 34,000 Syrian refugees had received primary health care services and 6,000 patients had been admitted to hospitals. Prevention campaigns and awareness sessions were launched in 2012 among more than 7,600 refugees.

### **Shelters and sanitation**

One of the main preoccupation concerns shelters, especially during the winter period, as the vast majority of Syrian refugees are residing in the coldest areas of Lebanon- the North and Bekaa Valley. At the end of 2012, 56% of the refugees were renting accommodations in Lebanese families houses. More than 11,000 persons had their homes rehabilitated with the support of the UNHCR, NRC and Caritas Migrant, in exchange for providing free rent to refugee families. Over 4,000 people had also received cash to pay rents at the end of the year. Moreover, several projects were implemented, notably by the association Première Urgence and Action contre la faim, aiming to improve water (with the distribution of water filters), sanitation and hygiene conditions in refugee shelters, to address the risk of tuberculosis.

### **Camps**

Refugees and those who support them in Lebanon call on the Lebanese government to address their case in a humanitarian perspective, rather than in a political way. Nevertheless, the setting up of refugee camps remains a sensitive issue, since for the government it means the permanent presence of the Syrian refugees. In June 2011, the first refugees' tents appeared in the Aarsal region. Families had indeed opened their homes to refugees but had started lacking space and tents have been installed. The camp and the refugees' needs were provided for through financial assistance from the Saudi Relief Committee of the Muslim World League.<sup>76</sup>

### **Deportations**

Even though Lebanon took the decision to keep its borders open, the country deported 14 Syrians to their country in August 2012<sup>77</sup>, in violation with article 3 of the Convention against torture. Four of them declared they feared persecution if returning to their home country. This practice seemed to have stopped following the denunciation of this deportation by civil society and international organizations. At the end of 2012, Syrian refugees arrested by the General Security received the same

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<sup>76</sup> The Daily Star, *First refugee tents appear in Aarsal as municipality struggles to cope*, June 9, 2012

<sup>77</sup> [HRW annual report 2013, Migrant and refugees right](#)

detention treatment as Lebanese with no identity documents, or Palestinian refugees in Lebanon, and were rapidly released on the Lebanese territory.

### **Palestinian refugees, rights and living conditions in Lebanese camps**

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Since the creation of Palestinian refugee camps in Lebanon in the late '40s, the number of residents kept on increasing and clashes in 1975 between the Palestinian Liberation Organization (PLO) and the Lebanese factions made the situation even more complex.<sup>78</sup> Palestinians claim their right of return to their homes in Palestine, established by UN resolution 194, which has no coercive value since voted by the General Assembly and not the Security Council. On November 29, 2012, the United Nations General Assembly voted a resolution to give Palestine the status of non-member observer state. 138 countries voted in favour of the resolution, 9 against while 41 countries abstained.

In Lebanon, an estimated 300,000 Palestinians live in the camps across the country. Discriminatory laws, in flagrant violation of the Human Rights Charter, and decades of marginalization have left the Palestinian refugees in Lebanon socially, politically and economically disadvantaged. Various civil society organizations, as well as the UNRWA<sup>79</sup> continued in 2012 to implement projects to assist the Palestinian refugees in Lebanon.

#### **Employment restrictions**

Palestinian refugees are subject to many employment restrictions. In 2005, officially registered Palestinian refugees borne in Lebanon were allowed by law to work in the clerical and administrative sectors for the first time. However, refugees are still unable to work in some professions, for example, as doctors, dentists, lawyers, engineers or accountants. No measures were taken in 2012 to improve their access to employment, even though the Labor Code was amended in 2010 in this field. A study carried out by the IOL in 2011 revealed that only 2% of Palestinians obtained a work permit, most of them with a salary below the minimum wage.

#### **Property**

In 2001, the law concerning the foreign acquisition of property<sup>80</sup> was amended to allow foreigners to acquire property, however this amendment excluded Palestinians. In 2011, around thirty civil society associations launched a campaign entitled "Palestinian Refugees Real Estate Property Ownership in Lebanon" to discuss a new amendment of the law and define an action plan for the year 2012.<sup>81</sup>

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<sup>78</sup> The Daily Star, *Lebanese, Palestinian actors take part in UNRWA project*, September 7, 2011

<sup>79</sup> Following the 1948 Arab-Israeli conflict, UNRWA was established by United Nations General Assembly resolution 302 (IV) of 8 December 1949 to carry out direct relief programs for Palestine refugees. The Agency began operations on 1 May 1950. In the absence of a solution to the Palestine refugee problem, the General Assembly has repeatedly renewed UNRWA's mandate, most recently extending it until 30 June 2014.

<sup>80</sup> Law No. 296/2001

<sup>81</sup> L'Orient le jour, *Meetings on the Palestinian right to own properties*, October 12, 2011

### **Precarious living conditions**

The Palestinian refugee camps are in constant demographic growth, with a defective system of access to housing, water, electricity, waste treatment and other services that contribute to an increase of health issues. The reconstruction of a first batch of houses in the Nahr el-Bared refugee camp, destroyed during the fighting in 2007 between the Lebanese army and the Fatah al-Islam armed group, was completed at the beginning of the year 2012. These houses can accommodate 317 families; however 8,000 Palestinians are still displaced in the camp<sup>82</sup>. UNRWA is implementing a program to assist 3,000 families displaced following the Nahr el-Bared events in 2007<sup>83</sup>. This program aims to rebuild the camps, and to improve the precarious living conditions. Studies published in 2012 by several associations and public health research center points out the scale of the health problem in the Palestinian camps. For example, anemia affects more than 30% of pregnant women and 80% of children under one year old<sup>84</sup>. In response to this situation, UNRWA has increased by 40% its coverage of health programs in February 2012.

### **Identification cards**

An unknown number of Palestinian refugees continued to reside in Lebanon without an official ID card, leaving them unable to register marriages, births and deaths.<sup>85</sup> In 2012, there was an agreement between the General Security and the Lebanese Palestinian Dialogue Committee (LPDC), in cooperation with UNRWA, to start issuing identity documents to non-ID Palestinians<sup>86</sup>.

### **Refugees and asylum seekers status**

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Many asylum seekers, who have fled Iraq and Sudan for most of them, find refuge in Lebanon. At the end of 2012, the UNHCR had registered in Lebanon 8,130 Iraqis, 160 Sudanese, and 111 nationals from other countries.<sup>87</sup>

### **No legal recognition of the refugee status**

Lebanon did not ratify the 1951 Convention relating to the Status of Refugees, and therefore does not recognize the refugee status granted by the UNHCR to many asylum seekers who are treated as illegal immigrants and under constant threat of arrest and deportation. Due to the large number of Palestinians in Lebanon, to the political and religious context in the country, and for economic or security reasons,

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<sup>82</sup> Human Rights Watch, World report 2012, Lebanon, <http://www.hrw.org/world-report/2013>

<sup>83</sup> Daily Star, *EU donation to UNRWA to assist with housing costs*, September 17, 2011

<sup>84</sup> The British medical journal The Lancet published a series of abstracts presented at a conference of public health researchers - the Lancet-Palestinian Health Alliance - held in Beirut in March 2012. The American Near East Refugee Aid also published a report in June 2012 deploring the precarious situation of Palestinian refugees in Lebanon. [L'Orient le jour, Palestinian refugees in Lebanon, June 21, 2012](#)

<sup>85</sup> [Amnesty International, 2012 Annual Report on Lebanon](#)

<sup>86</sup> [Witness, The Situation of the Palestinian Refugees in Lebanon Annual Report 2012](#)

<sup>87</sup> UNHCR statistics: <http://www.unhcr.org/cgi-bin/texis/vtx/page?page=49e486676>

Lebanon does not want to ratify the 1951 Convention relating to the Status of Refugees.

Refugees can be tolerated for a short period of time on the Lebanese territory, provided they are supported by the UNHCR that must resettle them in a third country.

The 1962 Entry and Exit Law prohibited refoulement of "political refugees" and provides that any foreigner whose life or liberty was in danger for political reasons could seek asylum. In theory, the government granted political asylum in only one known case in 2000 to a member of the Japanese Red Army.<sup>88</sup>

#### **Memorandum UNHCR – Lebanese authorities**

During the visit of the Secretary General of the High Relief Commission in Lebanon in 2011, the European Union Ambassador to Lebanon highlighted the importance of finalizing the Memorandum of Understanding between the Lebanese authorities and UNHCR to better guarantee the rights of refugees and asylum seekers in Lebanon. This would also allow for stronger EU support to Lebanon in this regard. The last memorandum between Lebanon and the UNHCR was signed in 2008.

#### **Arbitrary detention and forced deportations.**

Many refugees and asylum seekers are arrested and kept in detention in degrading conditions, particularly in the General Security underground retention center<sup>89</sup>, even though they finished their sentences for illegal entry in Lebanon, or after having been acquitted.<sup>90</sup> In 2012, the prolonged arbitrary detention of Iraqi and Sudanese refugees from 3 to 10 months in the General Security retention center, were reported to CLDH. Sometimes victims of torture, asylum seekers and refugees are often forced to choose between indefinite detention or the return to their country of origin where they are exposed to torture, or may even face executions. The practice of forced deportation violates the principle of non refoulement, and the Convention against torture ratified by Lebanon.<sup>91</sup> In 2012, at least one case of forced deportation of an Iraqi refugee, recognized by the UNHCR, was reported.

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<sup>88</sup> United States Committee for Refugees and Immigrants, *World Refugee Survey 2008 - Lebanon*, June 19, 2008, <http://www.unhcr.org/refworld/docid/485f50c076.html>

<sup>89</sup> CLDH Report "Prisons in Lebanon: legal and humanitarian concerns", 2009

<sup>90</sup> UNHCR Country Operations Plan 2008-2009 : Lebanon, <http://www.unhcr.org/46f90afa2.html>

<sup>91</sup> [Amnesty International, 2012 Annual Report on Lebanon](#)

# FREEDOMS OF EXPRESSION AND OPINION

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## **Universal Declaration of Human Rights**

*"Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers." - Article 19*

*"Everyone has the right to freedom of peaceful assembly and association. 2. No one may be compelled to belong to an association." - Article 20*

## **Lebanese Constitution**

*"Lebanon is a parliamentary democratic republic based on respect for public liberties, especially the freedom of opinion and belief, and respect for social justice and equality of rights and duties among all citizens without discrimination."- Preamble*

Public freedoms, including freedoms of expression and opinion, are a major component of civil and political rights. In Lebanon, these freedoms are unfortunately subject to various violations. Thus, infringements of freedom of expression and opinion are regularly reported, such as restrictions in the work of civil society organizations, lawyers, journalists and media, as well as in the artistic field.

Violations of freedom of expression may be insidious, concerning for example civil society organizations, lawyers or journalists<sup>92</sup>, through threats, disciplinary or judicial proceedings. With regard to the media and the artistic field, a prior censorship is governed by a 1949 law. The censorship bureau, within the General Security, issues broadcasting licenses for new artistic productions and Lebanese media, and does not provide justification for its decisions. Under this law is forbidden any production that affects the national security, incite sectarian tensions or threatens the relationship between Lebanon and friendly countries.

## **Complaint, trial and arrests**

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In 2011, the Amal movement, headed by the Head of Parliament Nabih Berri, filed a complaint against CLDH for false allegations of torture, defamation, and incitation to sectarian strife, following the publication in February 2011 of the report entitled *"Arbitrary detention and torture: the bitter reality of Lebanon"*. The report contains statistics based on testimonies tackling the alleged practices of torture, notably in cases of collaboration with Israel, and reveals that in some cases, Amal would have been involved in the arrest and practice of torture on detainees, even though these arrests are illegal, before handing over the detainees to the concerned Lebanese services.

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<sup>92</sup>In the World Press Freedom index 2011-2012 established by Reporters without borders, Lebanon is ranked 93 (out of 179), falling 30 places since the previous year:  
[http://en.rsf.org/spip.php?page=classement&id\\_rubrique=1043](http://en.rsf.org/spip.php?page=classement&id_rubrique=1043)

The report contains alleged practices of torture by most of the Lebanese security services dealing with arrests and only mentions Amal in four lines of the report. In its conclusions, CLDH explains that it was not possible to evaluate the frequency of these torture allegations specifically. Wadih Al Asmar, CLDH General secretary, recalled that CLDH is a human rights organization, and not a court of justice basing its findings on evidences and investigations. CLDH representatives were summoned twice on March 17 and 22, 2011. During the second interrogation, which lasted three hours the representatives of CLDH did not have access neither to a lawyer nor to the complaint filed against them. Following this last interrogation, the investigation report was transferred to the General Prosecutor Mirza, who decided to release them. On July 6, 2011, CLDH representatives appeared before the investigating judge, who postponed the audience on October 2011 before the Baabda court. In 2012, CLDH representatives were investigated on several occasions before the investigating judge Jean Fernaini.

On February 3, 2012, the charges against Saadeddine Chatila, human rights defender from the international organization Al Karama, pursued by the Military Justice for reporting allegations of torture perpetrated by the Lebanese army, were finally dropped by the military investigating judge, after 6 months of proceedings.

In April 2012, painter and poet Semaan Khawam was tried for "disturbing public order" after drawing graffiti of armed soldiers, end of the summer 2011, recalling the fighting of the civil war on the walls of Beirut. Similarly, the Lebanese army arrested bloggers and activists Ali Fakhri and Khodor Salameh on April 20, 2012, as they were drawing graffiti on a wall in Bechara El-Khoury Avenue in solidarity with the "freedom graffiti week", launched by Syrian painters in protest against the regime. Both bloggers were eventually released following pressure from civil society activists. The Internal Security Forces used violence against journalists and activists who participated in the sit-in in solidarity with the two bloggers; photographers Khaled Iyad from Al-Nida magazine and Hussein Beydoun from El-Nashra website were injured and their cameras broken.

On April 2012, stand-up comedians Edmund Hedded and Rawiya Al-Shab were brought to court for "public indecency", following a comedy show in 2009.<sup>93</sup>

### **Relationship between lawyers and media**

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In September 2011, two lawyers faced disciplinary measures for publishing an article criticizing the draft amendment to the guide of ethical conduct regulating the relationship between lawyers and the media, restricting their freedom of expression. This amendment relates to the prohibition on lawyers to express their views in the media covering the cases they are in charge of, or on any other procedure. This

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<sup>93</sup> [SKeyes Condemns Repeated Violations against Freedom of Opinion and Expression in Lebanon, April 2012.](#)

amendment also requires lawyers to inform the president of the bar association prior any intervention.

The prohibition to freely express in a professional environment undermines the freedom of expression of lawyers, taking into consideration that the defence requires to lawyer to publicly express.

Four human rights organizations expressed their concerns and condemned these disciplinary measures against lawyers, in violation with the rights and obligations of the legal profession. These restrictions to the freedom of expression are in contradiction with the UN basic principles on the role of Lawyers (1990), the UN Declaration on human rights defenders (1998), as well as international instruments to which Lebanon is party, including the ICCPR.

### **Threats, violence, and assassination attempts against Lebanese journalists**

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In January 2012, the "Media Focal Center" director, Salem Zahran, said he received explicit threats on his Facebook page. He also received a threatening phone call from an unknown foreign number, after his participation in a TV talk-show about the Syrian uprising on France 24<sup>94</sup>.

In April 2012, journalist Moustafa Moustafa Geha survived an assassination attempt. While driving back home, unknown gunmen shot five bullets on his car; he was not injured. In an interview with the SKeyes Center, Geha said he will pursue his quest to bring the assassins of his father, slain journalist Moustafa Geha to justice. Moustafa Geha Sr. was killed on January 15, 1992.<sup>95</sup>

In July 2012, supporters of the Free Patriotic Movement attacked the MTV channel crew that was reporting live during the 8pm news, in front of the Ministry of Energy and Water. Reporter Haytham Khawand and cameraman Joe Abou Antoun were covering a sit-in staged by supporters of Minister Gebran Bassil's decisions condemning the protest movement of Electricité du Liban bill collectors.<sup>96</sup>

Cameraman Ali Chaabane, from Al-Jadeed TV, was killed on April 9, 2012 at the Lebanese border with Syria, in Wadi Khaled, while he was in the TV car team making reportage.<sup>97</sup>

### **Online media: draft law**

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Online media have also been affected by censorship with the draft law aiming to regulate the websites and protect their owners in November 2011. According to the

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<sup>94</sup> [SKeyes condemns threats against journalist Salem Zahran, January 23, 2012](#)

<sup>95</sup> [SKeyes condemns Moustafa Geha's assassination attempt, April 15, 2012](#)

<sup>96</sup> [SKeyes condemns attack against MTV crew, July 20, 2012](#)

<sup>97</sup> L'Orient Le Jour, *Damascus is targeting Lebanese journalists*, April 10, 2012

draft law, each website has to have a known address and the owner's contact information should be readily available in case violations occur.

In return, the Information Ministry vows to protect the owner's freedom of expression and property. The Minister said that in the last census, the number of Lebanese websites dealing with politics was about 140, and that their number had doubled in few months.<sup>98</sup> Several Lebanese associations condemned the draft law, and launched a campaign entitled "STOP LIRA"<sup>99</sup> on Facebook, according to which the draft law contains loose expressions that are defined with an unprofessional and inconsistent manner which could cause ambiguity and put at risk the freedom of media. Moreover, obliging websites to obtain a permit could also limit the freedom of online communication.<sup>100</sup>

According to SKeyes association, this draft law on online media constitutes a violation to freedom of expression and to the rights of journalists and employees in this field. The text does not emphasize the protection of intellectual property, but rather attempts to control the media because of the increasing number of Internet users, which was not foreseen by the authorities or censors.<sup>101</sup>

### **Prior censorship**

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In 2012, the prior censorships decisions were less, compare to the several decisions rendered in 2011<sup>102</sup>. However in 2012, cases of pressure to prevent the screening of movies, sometimes already screened in movie theatres, were reported. As such, in October 2012, the association "Journalists against violence" denounced the campaign led by certain priests and politicians in order to prevent the screening of the movie "Fetih 1453", because it would "*incite sectarian tensions and disseminate a general climate favorable to religious discord*". Moreover, the movie "My Last Valentine in Beirut" was removed from two movie theatres where it was already screened, two weeks after its release, following a lawsuit filed by the Order of Nurses in Lebanon to the censorship bureau of General Security. The Order drew attention to the negative image about nurses which is given in the film. A scene of the movie shows a barber-taxi driver, who launches into a tirade in front of one of his clients, singing the praises of a woman he thinks is a nurse ... The order of the nurses considered this scene an insult to the profession, and in the film in general an offend to moral standards, demanding in its complaint the withdrawal of the movie from movie theatres. However, this film had granted permission from the General Security.<sup>103</sup>

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<sup>98</sup> Daily Star, *Draft law governing online media aims to regulate, protect: Daouk*, March 7, 2012

<sup>99</sup> Lebanese Internet Regulation Act

<sup>100</sup> NOW Lebanon, *NGO condemns draft law on online media*, March 7, 2012

<sup>101</sup> Press and cultural freedoms in Lebanon, Syria, Jordan and Palestine, Foundation Samir Kassir, Annual report 2011 <http://www.skeyesmedia.org>

<sup>102</sup> In October 2011, Lebanon did not allow the screening at the Beirut International Film Festival of an Iranian documentary on violence perpetrated in Iran before the elections in 2009, entitled "Red, White and Green"

<sup>103</sup> [Daily Star, Nurses want Salim el Turk film censored, November 2012](#)



## Civil society

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In 2012, the association MARCG organized a conference entitled "Censorship in Lebanon under the guise of freedom." MARCH also distributed in Lebanese universities the newspaper "FREE"<sup>104</sup> which covers all aspects of censorship, and held a discussion with students about freedom of expression and censorship in Lebanon. The association also launched in August 2012, a Virtual Museum of Censorship, which lists the artistic work censored in Lebanon since the 1940s.<sup>105</sup>

Several NGOs also participated in October 2012 in the Festival for the freedom of expression, aiming at denouncing the actual censorship system in Lebanon.

A draft law was submitted to Parliament in 2012 by a coalition of civil society organizations, with the aim to annul the actual prior censorship. According to the draft law, the Censorship bureau would be changed with a Committee of experts which role would be limited to the definition of age categories to warn about the content of the movie before its diffusion.

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<sup>104</sup> Freedom and Right of Expression Event

<sup>105</sup> MARCH Website: <http://www.marchlebanon.org/>

## **SPECIAL TRIBUNAL FOR LEBANON**

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The Special Tribunal for Lebanon (STL) was established following a request by the Lebanese government to the United Nations<sup>106</sup>, following the explosion on February 14, 2005 in Beirut that killed the former Lebanese Prime Minister, Rafik Hariri. The STL was inaugurated on March 1, 2009 at The Hague, in the Netherlands.<sup>107</sup>

According to the STL Statute, the Tribunal's primary mandate is to hold trials "*for the people accused of carrying out the attack of 14 February 2005 which killed 23 people, including the former prime minister of Lebanon, Rafik Hariri, and injured many others.*" If the Tribunal finds that other attacks that occurred in Lebanon between 1 October 2004 and 12 December 2005, or at any later date decided by the Parties and with the consent of the Security Council, are connected to the attack of 14 February 2005, it shall also have jurisdiction over persons responsible for such attacks.<sup>108</sup>

In 2012, the STL began its second mandate for a period of three years, with some changes in the composition of the STL, and amendments to the Rules of Procedure and Evidence. The activity of the STL was marked by the adoption of in absentia proceedings of the accused, by the authorization given to 67 victims to participate in the proceedings, and decisions on the various motions filed by the defense. A tentative trial date has also been fixed, and development in terms of the definition of the crime of criminal association was initiated.

### **STL Composition: nominations, re-elections and departure**

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In March 2012, the new Prosecutor of the STL, Norman Farrell, and the new Appeals Chamber Judge, Daniel Nsereko, have been sworn in. In December 2012, the United Nations Secretary General appointed Judge Ivana Hrdličková to the Appeals Chamber, and replace Judge Kjell Erik Björnberg. Judge Sir David Baragwanath was re-elected unanimously as the Tribunal's President and Presiding Judge of the Appeals Chamber. The Appeals Chamber also voted unanimously to re-elect Judge Ralph Riachi of Lebanon as the Vice-President. In April 2012, the Deputy Head of the Defence Office, Alia Aoun, resigned.

### **Amendments to the Rules of Procedure and Evidence**

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In February 2012, the Judges of the STL approved some amendments to the Tribunal's Rules of Procedure and Evidence. There were a limited number of changes, which clarified the existing rules especially in relation to victims.

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<sup>106</sup> The Special Tribunal for Lebanon was established in 2007 by Resolution 1757.

<sup>107</sup> STL official website, <http://www.stl-tsl.org/fr/about-the-stl/creation-of-the-stl>

<sup>108</sup> [STL Statute, Article 1, S/RES/1757 \(2007\)](#)

## **In abstentia indictments and proceedings – Ayyash case and others**

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In 2011, the Prosecutor submitted an indictment for review to the Pre-Trial Judge. The indictment was confirmed and served on the Lebanese authorities, who had to report on their efforts to search for, arrest and transfer the accused. The identity of the accused and the charges against them were then revealed publicly. At the end of 2011, the Prosecutor General of Lebanon submitted a report to the STL in response to the requests for Assistance. In February 2012, the Trial Chamber decided to try the four accused in their absence, after examination of numerous documents from the Tribunal's Prosecutor and the Lebanese Prosecutor-General, which detail the steps taken by the Lebanese authorities to apprehend the accused and inform them about the proceedings. The STL is therefore the first international tribunal since the Nuremberg military tribunal to be able to try accused in abstentia.<sup>109</sup> Upon being appointed, the eight lawyers for the four accused asked the Trial Chamber to reconsider its ruling. The defence counsel argued in its motions that in absentia trials are a violation of human rights and that the accused were not properly notified of the charges against them. In July 2012, the Trial Chamber rejected motions by the defence counsel for the four accused, considering the efforts by the Lebanese authorities to find the accused and inform them of the proceedings against them, as well as the massive publicity that the indictment and the identities of the accused received in Lebanon. The Chamber found that it was inconceivable that the Accused were unaware of the indictment against them and that everything was done to notify them. The Defence appealed that decision. In November 2012, the Appeals Chamber unanimously dismissed challenges by the Defence.

## **Victims**

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The Victims' Participation Unit transmitted to the Pre-Trial Judge 73 applications from individuals who claim to have suffered physical, material or mental harm as a result of the 14 February 2005 attack. On May 8, the Pre-Trial Judge determined that 58 victims could participate in the proceedings, in a unique group. The Registrar designated a legal representative and two co-counsels to represent the victims during trial. In September 2012, the Pre-Trial Judge granted nine additional persons the status of victims participating in the Ayyash et al proceedings.

May Chidiac Foundation - Institute of Media and CLDH organized on 15 and 16 November in cooperation with the STL a conference of experts entitled: "Participation and protection of witnesses in international criminal proceedings". This conference was an opportunity for NGOs, judges, lawyers, newspaper editors and representatives of embassies, the STL and the Lebanese State to discuss various issues relating to actions taken or to be taken to ensure the participation and protection of witnesses, but also the role of the media (public's right to information vs. confidentiality).

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<sup>109</sup> The STL applies Lebanese law as well as international law. Trials in absentia are permissible under Lebanese law and are a measure of last resort to ensure that those who abscond do not delay the course of justice.

## **Jamil El Sayed case**

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Mr El Sayed was detained by the Lebanese authorities for almost three and a half years as part of an investigation into the 14 February 2005 attack. The United Nations Working group on arbitrary detention qualified as arbitrary the detention of Mr. El Sayed, as well as three officers and four civilians. The STL Pre-Trial Judge ordered his release shortly after the Tribunal's establishment in 2009. In April 2012, a request by Mr. El Sayed to sanction the Prosecutor for contempt and misconduct was rejected.

## **STL jurisdiction and legality**

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In May 2012, the defence team for Mustafa Badreddine filed a motion challenging the legality of the establishment of the STL. On June 13 and 14, 2012, the Trial Chamber held a hearing to hear arguments from the Prosecution, the Defence Counsel and the legal representatives for victims concerning the legality and jurisdiction of the STL. For the first time, representatives of the victims and defense counsel appeared before the STL. In July 2012, the Trial Chamber confirmed the STL's jurisdiction to try those accused of committing the 14 February 2005 attack and connected cases. The Trial Chamber dismissed all the motions of the Defence Counsel, who argued that the Tribunal was set up illegally, violates Lebanese sovereignty, has selective jurisdiction and does not guarantee the accused a right to fair trial. The decision was appealed by the counsel for three of the accused. In October 2012, the Appeals Chamber of the STL unanimously dismissed the Defence challenges to the Tribunal's legality.

## **Definition of the crime of criminal association and terrorism**

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In March 2012, the Pre-Trial Judge requested the Appeals Chamber to define the crime of "criminal association", which is an offence under the Lebanese Criminal Code<sup>110</sup>. The STL President decided to temporarily suspend proceedings to define the crime of "criminal association", following the Pre-Trial Judge's rejection of the Prosecutor's request to amend the indictment, on March 13. In 2011, the Appeals Chamber was asked to define the crime of terrorism and conspiracy. In July 2012, the Appeals Chamber issued a decision rejecting the request of the Defence to reconsider its ruling of 16 February 2011, which defined terrorism for the first time in international law.

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<sup>110</sup> Article 335 of the Lebanese criminal code.

## **Date of the trial**

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In July 2012, the Pre-Trial Judge issued an order setting 25 March 2013 as a tentative date for trial to start in the Ayyash et al case. In November 2012, the STL Prosecution filed its Pre-Trial Brief<sup>111</sup>, the list of witnesses it intends to call at trial (557 witnesses), and the list of exhibits it intends to offer into evidence (13,170 exhibits).

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<sup>111</sup> The Pre-Trial Brief and associated documents were all filed on a confidential basis. The list of Witnesses and list of Exhibits will remain fully confidential, unless the judges decide otherwise. A public redacted version of the Pre-Trial Brief is available on the STL website @ <http://www.stl-tsl.org/fr/the-cases/stl-11-01/main/filings/other-filings/office-of-the-prosecutor/f0534>

# ADMINISTRATION OF THE JUDICIARY SYSTEM IN LEBANON

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## **Universal Declaration of Human Rights**

*"Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law."*- Article 8

## **International Covenant on Civil and Political Rights**

*"Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law."* - Article 14.5

## **Lebanese constitution**

*"The judicial power shall be exercised by courts of various degrees and jurisdictions. It shall function within the limits of an order established by the law and offering accordingly the necessary guarantees to judges and litigants. The law shall determine the conditions and limits of the judicial guarantees. The judges shall be independent in the exercise of their functions. The decisions and judgments of all courts shall be rendered and executed in the name of the Lebanese People. - Article 20*

*"The political system is established on the principle of separation of powers, their balance and cooperation"- Preamble*

## **Code of Civil Procedure**

*"The judiciary is a power (authority) independent from other powers (authorities) in the examination and resolution of lawsuits. Its independence shall not be limited except as provided in the constitution."- Article 1*

Inspired by the French and Ottoman systems, the Lebanese judiciary is composed of ordinary courts (judicial and administrative), religious courts, as well as special tribunals such as the High Court of justice, the Justice Council and the military tribunals. If the independence of the Lebanese judiciary is enshrined in the texts, in practice, these texts remain a dead letter. The principle of separation of powers is thus far from being respected, as there are many interventions of the Executive power in the administration of the judiciary. As for the exception tribunals, they are in flagrant contradiction with the Universal Declaration of Human Rights and the ICCPR.

## **Independence and impartiality of the judiciary in Lebanon**

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The independence of the judiciary is enshrined in Article 20 of the Lebanese constitution: *«judges shall be independent in the exercise of their functions»*. According to the Preamble of the Lebanese constitution, *"the political system is established on the principle of separation of powers, their balance and cooperation."* The independence of the judiciary is also enshrined in Article 1 of the Code of Civil Procedure, by guaranteeing the independence of magistrates. Article 44 of the judicial law also stipulates *"that judges are independent while practicing they cannot be transferred or dismissed off the judiciary unless stipulated by law."*<sup>112</sup>

In practice, the Executive power is constantly involved in the functioning of the Lebanese judiciary. Some laws in Lebanon also may cast doubt on the independence of the judiciary, as reflected by the procedures for the appointment of the members of the Higher Judicial Council by the Executive<sup>113</sup>. In March 2012, the Minister of Justice Chakib Cortbaoui transmitted to the Government the name of the candidate for the Higher Judicial Council Presidency. The announcement took place while lawyers from the Beirut and Tripoli bar associations went on strike over the delay in the appointment of the President of the Higher Judicial Council. In June 2012, the President of the Republic Michel Sleiman signed a decree to appoint the members for three years non-renewable. In October 2012, the Higher Judicial Council held its first meeting chaired by Judge Jean Fahd, appointed President of the Council.

In June 2012, a draft law aiming to strengthen the independence of the judiciary was submitted to the Council of Ministers. The draft law proposes several amendments, and received the support of legal experts, since its announcement on May 8. One of the amendments pertains to the Higher Judicial Council – currently nominated by the Executive power -, by expanding the number of the members to 14 instead of 10. Twelve members of the Higher Council are active judges, and the 13<sup>th</sup> is a former judge appointed by the Minister of Justice among the five names proposed by the permanent members. The 14<sup>th</sup> member is a former president of the bar association, appointed by the Minister of Justice among the four names proposed by the current presidents of the Beirut and Tripoli bar associations. This reform, while necessary, is still partial and limited, regarding the reform of the judicial system in Lebanon, particularly in terms of independence.

Lebanese civil society, as well as the Minister of Justice condemn these abuses, and encourage any move towards independence and impartiality of the judiciary in Lebanon. Thus, the Minister of Justice had already mentioned in 2011 the issue of the crisis of the judiciary undermined by political interference. Wishing to restore confidence of the Lebanese in the justice and of the judges themselves, Mr. Cortaboui requested the members of the judicial inspection to exercise their

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<sup>112</sup> Article 44, decree law 150/83, September 16, 1983

<sup>113</sup> Article 2 of decree law 150/83, amended by law n°389/2001, stipulates that the nomination of half of the members of the Higher Judicial Council is made by decree on a proposal from the Minister of Justice.

authority over the judges and officials often responsible for corruption in Lebanon. Also in 2011, the Prime Minister had welcomed the adoption of a new pay scale for judges, promoting this way the independence of the judiciary in Lebanon. He had also encouraged judges to ignore the accusations of defamation which they were subject to in order to ensure the integrity of their profession.

On December 19, 2011, CLDH published a press release to condemn the pressure of politicians on judges, following a decision by the President of the Military Court of Appeals to release on bail, pending their trial in appeal, four members of Alam family who had been sentenced to prison terms for espionage by the Permanent Military Court. CLDH welcomed this decision and encouraged all judges to take the decision to release as many detainees as possible, in accordance with the Lebanese law and without taking into account any of the political interferences that are unacceptable within the judicial process. The ICCPR thus provides that it shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgment. Many accused are victims of excessive period of pretrial detention in violation of the right of the accused to a fair trial guaranteed by the ICCPR.<sup>114</sup>

In 2012, several projects to ensure the well functioning and independence of the judiciary were implemented.

In March 2012, the Institute of Law studies organized training sessions to 34 magistrates. This training is part of the project "*Enhancing the capacities of the Ministry of Justice – Supporting the legal profession*" funded by the European Union. This project aims to ensure the efficiency and the proper functioning of the judicial system in Lebanon by supporting the professionalization of all judiciary actors.<sup>115</sup>

In July 2012, the European Union, the Minister of Justice, and the United Nations Development Programme inaugurated legal electronic databases for the Ministry of Justice and the Institute of Judicial Studies, allowing judges to have access to the Lebanese legislation and jurisprudence. For M. Watkins, UNDP representative, this operation facilitating access to justice will curb the illegal practices of the judicial system. The biggest challenge of the Lebanese judiciary pertains to the delay in procedures, including excessive periods of pre-trial detention. The slowness of justice seriously undermines the credibility of the judicial system as a whole and the establishment of an electronic system for judges may address this issue.

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<sup>114</sup> [CLDH, \*Disputed decision to release on bail four alleged spies, December 19, 2012\*](#)

<sup>115</sup> [Lebanon : EU supports efforts for more efficient justice system, March 2012](#)



## Special tribunals

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The special tribunals in Lebanon include the High Court of Justice, which has jurisdiction to judge presidents, ministries and members of parliamentary, the Justice Council and the military tribunals, which have jurisdiction to judge militaries and cases related to national security.

The Justice Council and military tribunals are in violation with several fundamental rights, in both their composition and practices. The Justice Council, highest criminal court in Lebanon is composed of five judges and chaired by the President of the Court of Appeal, who is also the president of the Higher judicial council. The Justice Council examines crimes against internal and external security of the state, referred by the government by decree. The referral to this Court therefore remains in the hands of the Executive power: thus, the Council of Ministers can determine, that a particular crime allegedly committed by a particular person should be treated as a crime against internal security or as a crime that tends to de-stabilize the political system<sup>116</sup>. Cases before the Justice Council are even more problematic, as there is no right to appeal before a different court of law, which raises the scope of Article 366 of the Code of criminal procedure, which paves the way for a revision of trials only before the same Justice Council.

In principle, military tribunal have sole jurisdiction over crimes and offences which are defined under the military criminal code, and committed by military personnel. In Lebanon, these tribunals also have jurisdiction over any crime, offence or act involving directly or indirectly military personnel. This jurisdiction was expanded to civilians over any act representing a "threat to the security of the State" or inciting a conflict. Moreover, any offence committed in prisons is referred to the military tribunal. Concerns can also be raised regarding the procedures followed by military tribunals; thus, judges do not have to motivate their decisions. The procedure is also not subject to review by the ordinary courts.<sup>117</sup> All these aspects of military tribunals are in violation with the universal rights of the defence and with the right to a fair trial enshrined in article 10 of the Universal declaration of human rights. The United Nations Human Rights Committee expressed in its 1997 review of Lebanon's report "*concern about the broad scope of the jurisdiction of military courts in Lebanon, especially its extension beyond disciplinary matters and its application to civilians.*" The committee recommended the Lebanese state to transfer the jurisdiction of the military tribunals to ordinary courts for all trials involving civilians, and in all cases of human rights violations by members of armed forces.<sup>118</sup> Trials before military tribunals are inequitable; some judges are military officers and therefore are neither independent nor impartial as they are subject to their hierarchy.

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<sup>116</sup> [Euro-Mediterranean Human Rights Network Justice in the south and east Mediterranean region, REMDH](#)

<sup>117</sup> [Euro-Mediterranean Human Rights Network, Independence and Impartiality of the Judiciary in Lebanon, 2010](#)

<sup>118</sup> CCPR/C/79/Add.78. April 1, 1997.

Moreover, tribunals usually do not take into account allegations of torture or refuse to amend the testimonies.<sup>119</sup>

### **Faysal Moqalled: 7 years in prison and still denied access to Justice**

Faysal Ghazi Moqalled has been waiting for more than three years his trial in appeal, after having been sentenced to life imprisonment on July 31, 2009, on the basis of confessions extracted under torture, following his arrest on February 8, 2006. Arrested by Hezbollah agents, Mr. Moqalled was detained illegally in one of their prisons during 5 months before being handed over to the military intelligence at the Ministry of Defense detention center where he stayed until March 26, 2008.

During these months of investigation, Faysal Moqalled was allegedly subjected to detention in a less than 2 square meter cell for 5 months, tortured by electricity and subjected to mock execution by gas. He was also allegedly subjected to the balanco (hanged from the ceiling with his arms tied in the back), to fallaq (repeated beatings on the sole of the feet) and to very serious threats.

He first saw a lawyer more than two years after his arrest.

During the investigation, Faysal Moqalled was reportedly forced to sign confessions. On July 31, 2009, the military court sentenced him to life imprisonment for providing information to the Israeli enemy to help it win the war (although he had been detained for 5 months before the Israeli attack); having entered Israel without a permission (which is proven not to have taken place); and having worked with the enemy's army, which Faysal Moqalled strongly denies.

During his trial, Mr. Moqalled complained to the judge of the torture he was subjected to, but the judge did not consider the allegations.

On October 13, 2010, after a number of human rights organizations – including CLDH - denounced the allegations of torture in this case, Faysal Moqalled was transferred illegally and secretly (his lawyer was not informed) from Roumieh central prison to the Ministry of defense detention center where he was reportedly investigated about the publication of the NGOs regarding his case, his allegations of torture and the intelligence services allegedly tried to intimidate him.

At the beginning of 2013, Faysal Moqalled remains detained and his trial in appeal keeps being postponed.

### **Tarek Rabaa: a civilian sued by the military court on the basis of confessions extracted under torture.**

Tarek Rabaa, a 41-year old Lebanese citizen, working as engineer at Alfa Telecom Company, was summoned to the Ministry of Defense for investigation on July 12, 2010. There, he was asked about a French phone number he received a call from, on his Lebanese mobile, while he was attending a training session in France in 2007. The Lebanese army intelligence suspected that this number belonged to a Mossad agent. It was later established by his lawyer that this number is in fact related to a transportation company that was dealing in France with the group of Lebanese trainees from the Alfa Telecom Company. Mr. Rabaa answered the questions posed to him by the Lebanese army intelligence.

Right after that, Mr. Rabaa was reportedly handcuffed and forcibly undressed. During his detention at the Ministry of Defense detention center he was allegedly tortured with electric shocks, additionally he was left standing during 20 days and slapped very severely on his ears. He was allowed to see his sister - acting as his lawyer- at first only 32 days after his arrest. According to available information, he was subjected to torture and ill-treatment for 108 days at the Ministry of Defense detention center - before being transferred to Roumieh prison, where he is still detained.

During the investigation, Mr. Rabaa refused to sign most of the documents presented to him by the Lebanese army intelligence, but his full name (not his signature) was handwritten at the bottom of the pages and then presented to the military justice as his "confession". On the basis of the above mentioned documents the military justice issued an arrest warrant on July 28, 2010, 16 days after the

<sup>119</sup> [Amnesty International, 2012 Annual Report on Lebanon](#)

arrest. He was charged with collaboration with Israel under articles 274, 275 and 278 of the Lebanese criminal code.

His trial in front of the military court began on 7 February 2011 (at this session Mr. Rabaa lost consciousness and had to be taken to hospital).

His defense presented all the proofs of his innocence to the military justice and on June 27, 2011 a forensic doctor provided the military justice with a medical certificate that proves he was subjected to torture, but the military justice refused to consider it.

To date, Mr. Rabaa is still being detained and his trial, based on confessions extracted under torture, is still ongoing.

## Judicial assistance

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In Lebanon, the prison population is exceeding almost three times the capacities of the detention facilities. Meanwhile, large number of detainees and prisoners could be immediately released if they could avail adequate legal assistance.

The judiciary assistance provided by the Lebanese State is insufficient; the lawyers are paid insufficient amounts at the end of each calendar year that do not systematically cover their real expenses in the cases (transportation, legal fees...). As a result, the appointed lawyers do not have the possibility to effectively defend low-income inmates who are not in a position to cover certain expenses. Moreover, the judiciary assistance system does not provide lawyers for foreigners arrested for crimes such as illegal entry or stay.

Regularly, riots break out in the Lebanese prisons due to the unfairness faced by the inmates; among them 70% should be released since they are either subjected to a prolonged pre trial detention<sup>120</sup>, or have been sentenced in contradiction with their rights provided in the Lebanese and international laws, or even are foreigners who have already finished their sentence and are pending their handover to the General Security (immigration police) who will decide on their regularization or repatriation.

CLDH provides legal assistance to vulnerable inmates in the Lebanese prisons with the aim to strengthen the rule of law in Lebanon through the improvement of the access to Justice for all and the prevention of arbitrary detention. Every year, CLDH provides lawyers for inmates who can not afford it and this legal assistance allows dozens of persons to be released, thus safeguarding their fundamental rights. A hotline was launched in order to allow the families of the prisoners and detainees to ask for legal advice and require legal assistance when they do not have a lawyer. This project improves access to Justice for all and helps reducing the practice of arbitrary detention in Lebanon, with a particular focus on the protection of marginalized people.<sup>121</sup>

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<sup>120</sup> Statistics established by CLDH in 2009 - 2010

<sup>121</sup> This project was implemented with the continuous support of AEDH (Working together for human rights) and ACAT France (Action by Christians Against Torture) and since 2012 of Open Society Foundations, Arab Human Rights Fund and the Canada Fund for Local Initiatives.

In 2012, CLDH detention team held a total of 230 counseling sessions with inmates during 32 "identification visits" to prisons, aiming at identifying the most vulnerable ones and referring them whenever necessary to CLDH lawyers. 60 inmates were hence referred to CLDH lawyers and 8 benefitted from a support in order to pay the fees of their appointed lawyers. At the end of 2012, 7 new cases were being studied by the lawyers.

In 2012, the project allowed the release of 27 vulnerable inmates.

## ANNEX I

### Ratification of International Human Rights treaties by Lebanon

<u>Treaty</u>	<u>Status</u>	<u>Date</u>
Convention on the Prevention and Punishment of the Crime of Genocide	Ratification	17/12/1953
Convention on the Prevention and Punishment of the Crime of Genocide	Signature	30/12/1949
International Convention on the Elimination of All Forms of Racial Discrimination	Accession	12/11/1971
International Covenant on Economic, Social and Cultural Rights	Accession	3/11/1972
International Covenant on Civil and Political Rights	Accession	3/11/1972
Convention on the Elimination of All Forms of Discrimination against Women	Accession	16/04/1997
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	Accession	5/10/2000
Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	Accession	22/12/2008
International Convention against Apartheid in Sports	Signature	7/11/1986
Convention on the Rights of the Child	Ratification	14/05/1991
Convention on the Rights of the Child	Signature	26/01/1990
Amendment to article 43 (2) of the Convention on the Rights of the Child	Acceptance	14/07/2000
Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in armed conflict	Signature	11/2/2002
Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography	Ratification	8/11/2004
Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography	Signature	10/10/2001
Convention on the Rights of Persons with Disabilities	Signature	14/06/2007
Optional Protocol to the Convention on the Rights of Persons with Disabilities	Signature	14/06/2007
International Convention for the Protection of All Persons from Enforced Disappearance	Signature	6/2/2007
Protocol amending the Agreements, Conventions and Protocols on Narcotic Drugs, concluded at The Hague on 23 January 1912, at Geneva on 11 February 1925 and 19 February 1925, and 13 July 1931, at Bangkok on 27 November 1931 and at Geneva on 26 June 1936	Definitive signature	13/12/1946

## ANNEX II

### Reports submitted and reports delay

**CAT-Convention Against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment**

3 reports due in 2001, 2005 and 2009

**CCPR-International Covenant on Civil and Political Rights**

Last report due in March 21, 2001

**CEDAW-Convention on the Elimination of All Forms of Discrimination against Women**

Next report due in May 16, 2014

**CERD-International Convention on the Elimination of All Forms of Racial Discrimination**

Last report due in December 12, 2006

**CESCR-International Covenant on Economic, Social and Cultural Rights**

3 reports due in 1995, 2000 and 2005

**CRC-Convention on the Rights of the Child**

Last report due in December 12, 2012

**CRC-OP-SC-Optional Protocol to the Convention on the Rights of the Child on the sale of children child prostitution and child pornography**

Last report due in August 12, 2006