

August 2023

Beirut Blast:

State action & Violations

An overview of the state institutions' relief work & legal violations.



Prepared by The Lebanese Center for Human Rights

TABLE OF CONTENT

CLDH background	03
Research Overview	03
Research Problematic	04
Research Objectives	04
Methodology	05
I-The Relief Process	05
The State of emergency	15
The 8th of August Protests	19
II-The investigations	
The body in charge of the investigation	20
A chronological overview of the investigation	21
The legal violations	26
III-Recommendations	30
Annex	32

CLDH BACKGROUND

The Lebanese Center for Human Rights (CLDH) is a local, non-profit, non-political Lebanese organization established in Beirut in 2006. It is a branch of the French-Lebanese association SOLIDA (Support for Arbitrarily Detained Lebanese) and has been active since 1996 in the field of opposing arbitrary detention, enforced disappearance and impunity and grave violations of human rights. It is a founding member of the EU-Mediterranean Union Against Enforced Disappearances (FEMED), a member of the Euro-Mediterranean Human Rights Network (EMHRN), a member of the SOS Torture Network of the World Organization Against Torture (OMCT) and the International Federation for Human Rights (FIDH).

The Center also publishes research on various topics aimed at improving the human rights.

RESEARCH OVERVIEW

The 4th of August 2020 weighs heavily on the people residing in Lebanon. On that day, the Beirut port explosion took place at 6:07 pm destroying a big radius of the Capital, killing 217 people, injuring 7,000 others and displacing 300,000 people.

In response to the blast, several officials resigned, a state of emergency was declared in the damaged areas, the army spread in Beirut and an investigation was launched with the promise of an outcome within five days. However, no effective relief policies were implemented by the State; contrariwise and due to the lack of assistance, the civil society, NGOs and citizens proceeded to clean the debris and provide aid to the victims. This has brought forward the incompetence of the Lebanese government.

As a consequence, many organizations provided direct aid, including CLDH.

CLDH's Emergency Response to the August 4, 2020, Beirut port explosion was launched back in September 2020 after an initial needs assessment. Rehabilitation services, including general practice consultations, physiotherapy, psychotherapy, legal assistance, cash assistance and food kits were offered to victims of the explosion and their relatives throughout 2021, with a gradual increase in caseload. In 2021 alone, the total number of people aided by CLDH was 1392 persons who received 6179 rehabilitation service.

Today, and after three years of the explosion, it is crucial to pinpoint the responsibilities and violations of the government in the hopes of holding it accountable.

RESEARCH PROBLEMATIC

This research aims to demonstrate the negligence of the State and subsequently the procedures adopted in the relief process. It aims to shed light on the violations, the government's disregard to the rule of law and the illegality of the State of emergency.

This research is elaborated from a neutral perspective, and thus will detail the misconduct and negligence of the government and how the policies implemented were beneficial or detrimental to the relief process.

RESEARCH OBJECTIVES

This research aims to:

- **Document the response of the State based on its role and responsibilities.**
- **Document the relief response taken by national and international initiatives as a result of the governmental gap.**
- **Document violations perpetrated by state institutions.**

METHODOLOGY

The research's methodology is mixed as it covers qualitative and quantitative data collection methods.

The qualitative method focused on obtaining the needed information by conducting interviews with open ended questions. It also involved collecting and reading credible legal texts, articles, reports and research papers as well as Focus Group Discussions with families of the victims to collect further information regarding the support they received from the State.

The quantitative method focused on analyzing data collected through polls, questionnaires and surveys.

The use of both methods allowed us to obtain information from different parties with diverging points of view and then proceed with the data analysis.

I- THE RELIEF PROCESS

The Beirut blast took place in a time when the citizens of Lebanon had already lost all hope in the state as a protection body. With a collapsing economy and the absence of the minimum governmental services, there was not much trust that the state will successfully play its role in the relief process. The latter led a number of civil society organizations, NGOs and private companies to cover the absence of state institutions' interventions.

After the blast, huge numbers of Lebanese and foreigners headed to the affected areas to help with the relief process by cleaning debris, providing food and medicine, offering shelter and helping in renovation. Media outlets focused on the work of non-governmental institutions and the unity it presented.

I- THE RELIEF PROCESS

In the following, we will be detailing the role that each of the following institutions played in the relief operation:

The Higher Relief Commission:

The Higher Relief Commission, as defined by its general director, is “a public institution affiliated to the Presidency of the Government and plays the role of receiving aid and relief for all development and disaster relief work inside and outside Lebanon”.

It has an indefinite budget, due to the fact that it is largely based on donations and grants, and implements the orders and decisions of the Council of Ministers and the Prime Minister.

The Commission cannot act except by virtue of an appointment decision issued by the Council of Ministers, and is bound by the frameworks laid down for it in the appointment decision”.

The duties of the Higher Relief Commission as per the law includes the following:

- Accepting donations from countries, local, regional and international organizations and legal and natural persons for the relief of the affected
- Laying out the necessary systems for receiving, transporting and storing donations
- Conducting administrative and financial work
- Logistics related to receiving, transporting and storing donations.
- Conducting statistics and collecting the necessary information
- Managing disaster affairs of all kinds and all matters of a relief nature and referred to it

After the explosion, the higher relief commission issued a statement announcing that it, along with the Survey and Damage Assessment Committee of the Lebanese Army, would investigate all the damages resulting from the explosion.

I- THE RELIEF PROCESS

In the session held by the government on August 5, the higher relief commission was assigned to “secure shelter for families whose homes are no longer habitable, and to communicate with the Ministry of Education to open schools, for the families” linked to relief operations. In an interview with the general director of the Higher Relief Commission, he affirmed that he issued a decision stating that the commission will cover the shelter expenses chosen by families in need. His decision, however, was refused after 48h by one of the ministers at the time, and the aforementioned shelter distribution decision was issued by the state. He adds, “I objected to the decision since the people and citizens in the affected areas will not accept sheltering in playgrounds and schools, and as a proof to that only one family sought shelter in a school”.

On August 8, a decision was issued by the Ministry of Education and Higher Education, the General Directorate of Vocational and Technical Education, to open the doors of the Bir Hassan technical school and Dekwaneh vocational complex to receive the affected families in distress. In addition, 5000 homes were offered by the citizens, as listed in the data collected by the higher relief commission. A lot of families sought shelter in houses from the list prepared by the commission.

The decisions of the August 5 government session also included assigning the army and the higher relief commission to conduct an immediate and comprehensive survey of the stricken and affected areas.

The general director of the higher relief commission stated that, immediately after the assignment decision, the commission provided 200 machines, offered by private companies, to unblock the roads allowing the passage of the red cross to help the injured and clean the roads. The machines continued working for 20 days after the explosion.

The Higher Relief Commission conducted two comprehensive surveys of the affected areas. The first was conducted the second day after the explosion with a private company (Khatib and Alama) that offered 150 engineers to help with the survey. As a result, a detailed report was drafted with an overview of the affected areas and the ones that needed intervention. The report, which was first based on the amount of damage, was presented to the government which later sent it to France as per the statement of the General director of the higher relief commission. The second survey was conducted jointly with the army before being later solely handled by the latter.

The higher relief commission worked as well on receiving monetary compensation from private companies to help in the relief process, playing the role of the link between the government and the army. The commission received funding for monetary support to the families of the affected houses and allocated it to the army.

I- THE RELIEF PROCESS

Based on what the director of the higher relief commission said to CLDH, the commission cannot directly provide monetary support. It only receives funding and then gives it to the body in charge of providing support. That is what it did with the army for the monetary compensation offered for the families living in the affected areas.

Abby Sewell, a freelance journalist, highlighted in an interview that the compensations were of two kinds: one for the families of the victims and the other for the families whose houses were damaged. She confirmed the presence of systematic discrimination in the allocation of the monetary compensation for the families of the victims in which foreigners were not eligible for receiving aid.

She stated that: "There were some problems since the amount was provided in cheques and some of them did not have bank accounts. In addition to the current situation with banks who would refuse to cash a cheque of this [huge] amount. Although eventually they reached a consensus with the state allowing the victims to cash the cheques but achieving it took months".

She added that "for the compensation provided for the damaged houses, since the criteria was not clear, I can't precise if there was any discrimination or not. For example, sometimes they would give the compensation to the tenants and sometimes to the home owners". The criteria were as well questioned by some of the families affected by the blast. In a focus group discussion that the Lebanese center for human rights conducted, there was a consensus that the compensation provided by the army was not nearly enough for the damages especially with the collapsing economy. "We paid for the damages ourselves. I could not wait while living without a roof", one of the victims stated. In addition to the low compensation, some victims noted the absence of coordination in the process, " I saw some of my neighbors getting paid, and I know that they did not suffer any damage from the blast".

When faced with these allegations, the general director of the Higher Relief Commission Major General Mhammad Kheir explained that the monetary compensation was not provided by the council. It was rather one of the main actions that were required by the army. He also added that the compensation was based on the damages of each house, determined by a study conducted by the army. Which raises questions regarding the data collection methods adopted by the army adopted.

In an interview with some of the victims living in the Achrafieh and Berj Hammoud areas, they stated that the army personnel came late to assess the damages, asked them a few questions and collected invoices for the repairing they did.

I- THE RELIEF PROCESS

In its response to CLDH the, Military command explained that the monetary compensation was determined by a geographical scan conducted by a committee of civil engineers and specialized officers (annex). Worth noting that, during the FGDs with individuals whose houses were affected by the blast, they stated that a few officers came to check on their houses asked a few questions, left and did not come back.

Furthermore, the government issued a decision to exempt from taxes any products that are being shipped or bought from any foreign countries for the purpose of being allocated to the families affected by the blast. The Higher Relief Commission monitored the entry of the products under this decision, and listed the names of the companies and organizations benefiting from it with detailed info of the beneficiaries. It later conducted random calls to them to ensure that they received the products as stated by the companies and organizations involved.

The obstacles that were faced by the commission:

- **Lack of coordination between state institutions, “the only state body that coordinated with us was the army” general director of the Higher Relief Commission stated;**
- **Political pressure;**
- **The lack of funding, the general director stated that the government did not provide adequate funding, so it was up to his personal effort to secure it;**
- **Insufficient logistical capacities: The commission employs 30 individuals, which is not enough to support a relief process, especially taking into consideration the broad scope of the Beirut Blast;**
- **The incitement against the commission by media outlets;**

Based on the opinion of the general director of the Higher Relief Commission, their work was well organized and based on the amount of damage in each area. The commission cooperated with civil society organizations as well to widen their scope of coverage. Despite the obstacles and challenges that they faced and the efforts they invested, they were attacked by the media due to the lack of trust in the state institutions and the media’s intention to appeal to foreign donors and governments.

I- THE RELIEF PROCESS

The Lebanese Army:

In accordance with the National Defense Law (Legislative Decree No. 102 of 16/9/1983 and its amendments), the army performs three missions: defensive, security, and development. These missions are aimed at maintaining security, and contributing to ensuring social stability and development:

The humanitarian development missions performed by the Lebanese Army:

- Building fixed and mobile bridges, especially during the repeated attacks of the Israeli enemy on Lebanon;
- Contributing to the re-establishment of the infrastructure of water, electricity, roads...etc in the damaged places, as a result of the wars and internal events;
- Building roads in remote villages and towns;
- Extinguishing fires, and carrying out extensive reforestation campaigns;
- Cleaning beaches, rivers and sea spots polluted by oil etc.;
- Aiding the besieged citizens with snow and torrential rain, distributing food and medical supplies to them, and conducting vaccination campaigns for children in remote places;
- Distributing various aid to the poor or to affected areas, in addition to distributing aid to some schools, hospitals, municipalities...etc., within the framework of CIMIC¹ and other programs;
- Strengthening scientific and cultural cooperation with national universities and necessary, and experiences by means the state devices
- Working with civil society organizations

On August 10, the Army Command launched the Forward Emergency Room (FER) to follow up on the humanitarian and development situation in the stricken areas in Beirut presided by Brigadier General, Sami El Hoayek, and including representatives from: the government, the ministry of public works, the ministry of energy and water, the ministry of telecommunications, the ministry of social affairs, the Lebanese Red Cross, the Civil Defense and the Higher Relief Commission in addition to specialized officers from the internal security forces. This room undertook the humanitarian and rescue missions, and coordinated the work of international and local governmental organizations to unify the tasks and prevent squandering of resources.

¹-The civil – Military co-operation. المديرية العامة للتعاون العسكري - المدني

I- THE RELIEF PROCESS

The FER included the following departments:

- Reconstruction department*
- Health department*
- Housing department*
- Nutrition department*
- Logistics department*
- Communications department*

In addition, survey teams were launched to check the state of on the affected houses to update the collected data and understand the victims' needs.

According to government decisions on August 5 and based on Article 3 of the Defense Law No. 102 and Articles 1, 2, 3 and 4 of Legislative Decree No. 52 dated August 5, 1967, declaring a state of emergency in the city of Beirut for a period of two weeks, August 4, 2020, August 18. 8/2020, and the competent authorities shall exercise the powers stipulated in Legislative Decree No. 52/1968, and in accordance with Article 3 of this Legislative Decree, the Supreme Military Authority shall immediately assume :

- The authority to maintain security is placed at the disposal of all armed forces including the internal security forces, public security, state security, customs, the men of armed forces in the ports and airports, the armed guard units and their attachments and detachments.
- The forces perform their basic duties according to their own laws and under the command of the higher military command.
- The higher military authority also chooses some elements of these forces to assign them with special tasks related to security operations and guarding hotspots and rescue operations. (The jurisdiction of the army in a state of emergency is further detailed in the paragraph titled "State of Emergency").

I- THE RELIEF PROCESS

Based on the answers of the army command to a list of questions communicated by CLDH, they covered the following missions:

- **Executing a three-step rescue plan:**
 - The instant response: conducted by Isolating the spot of the explosion, which was carried out by the units deployed in the vicinity of the port.
 - First aid and rescue: which included rescuing the survivors and the injured and evacuating them to nearby hospitals. In which all the military personnel in the vicinity of the blast site took part, in addition to the army's military vehicles and the military medical unit.
 - Removal of the disaster's effects: which included removing rubble, searching for the missing, and then surveying the damage in order to launch the restoration and reconstruction process.
- **Establishing an operations room in partnership with the red cross, the Lebanese civil defense as well as foreign groups in order to organize and facilitate the rescue efforts**
- **Monitoring shops, commercial establishments, and homes from theft, by implementing a security cordon in the affected area, and carrying out foot and motorized patrols inside the streets**
- **Helping clean the streets**
- **Surveying the damage caused by the explosion in order to quickly prepare for the launch the restoration and reconstruction process**
- **Distributing food boxes**
- **Receiving all humanitarian and medical aid to organize and distribute it to the affected families**
- **Coordinating with international donors, as well as ministries, official departments, public institutions and local authorities in the framework of securing aid and reconstruction**

I- THE RELIEF PROCESS

In its answer to CLDH, the army command added that they needed to be supported by foreign governments due to the fact that the Beirut blast was a catastrophic event and they were able to deal with the damages to a certain extent due to their high level of organization.

Since the economic collapse, there has been an orientation towards involving the military in humanitarian work. For instance, they were in charge of distributing ration and monetary compensation without any support from other state institutions. Which could cause fear or hinder the humanitarian relief process especially that, in the case of the Beirut Blast, both the victims and volunteers were not only Lebanese. Some were foreigners and migrants who might not be holders of legal papers.

In Abby Sewell's opinion and observations during the response after the blast, the military was the main state entity that was involved. They were also distributing food boxes before the monetary compensation. "I think they chose the army since they are the most trusted institution and they also have the manpower and capacity to cover this amount of ground and territory which the ministry of social affairs or other relevant ministries don't have. But at the same time, many beneficiaries have pointed out that the army does not have the training or experience to act as humanitarian actors. It is not their role. Their role is to provide security".

The army's work was criticized by a lot of beneficiaries. As mentioned in the previous paragraph, people were questioning the criteria. Abby revealed that the army was distributing food boxes in well off areas like Ashrafieh. Which led some residents to feel that it was a waste of resources and a bit insulting to have someone show up at their door with a food box when their house just got destroyed, this was not the assistance they needed. She added that "with regards to the compensation, there were cases where everyone in the building was compensated except for one. In other cases, people in the same building were compensated twice". Based on her opinion, the main issue lies in the lack of organization which is to some extent expected to happen in such situations.

For Roy Boukhary, an activist, the army was simply a security force present to protect the politicians that visited the affected areas and to demand the identification cards. That led to a lot of clashes with the army. He stated that "it was not the correct time for the army to protect the politicians and ally with them against the people, this caused a lot of clashes with the army". Roy added that the reason behind the involvement of the army in humanitarian work, in his opinion, "is to improve their image, the army was put in a lot of situations against the citizens, maybe, the politicians are trying to make them look better".

I- THE RELIEF PROCESS

On the contrary, in their letter to CLDH the army command revealed that “based on article 1 of the national defense law (legislative decree no. 102/ 1983)... Armed forces can aid in development and social fields, provided that this does not hinder their initial tasks. Therefore, humanitarian work is one of the main roles of the army”. They also added that they worked in a methodical manner with the sole purpose of providing aid to everyone without any discrimination based on race, color, religion and nationality . Their focus was first directed towards protecting the area. Therefore anyone who could not prove that he lives in the area was not allowed to enter. The food boxes were distributed to everyone living in the affected area, and the monetary compensation was distributed based on a study conducted by a committee of specialists (annex).

Moreover, the army command highlighted the fact that they chose to “be lenient with the vulnerable or marginalized groups regarding the issue of identity papers” while distributing the aid. This statement provides insight into why security agencies such as the army should not be handling or distributing aid.

On the other hand, the army command shared the main challenges that they faced during their relief work:

- The unavailability of a population survey
- The absence of some affected individuals from their houses
- The change in tenants following the blast
- The lack of coordination between organizations and the FER set up by the army to supervise and coordinate their work as some organizations partially renovated a number of apartments and houses

The Governor Of Beirut:

The Beirut Governor’s Office (the decision-making body in the Beirut municipality) has appealed to four major engineering firms to allocate funding for buildings at risk of destruction. It also published a study on the status of buildings without specifying their source, receiving citizens’ requests and issuing individual decisions. Yet the Office of Urban Planning was absent.

We requested a meeting with the governor but we did not receive any response as of the publishing of this research.

I- THE RELIEF PROCESS

The President and the Government:

- August 5, 2019 session decisions.
- The Lebanese Supreme Defense Council announces that President Aoun decided to release the exceptional appropriation, which amounts to 100 billion pounds in the 2020 budget allocated to exceptional and emergency circumstances, but there is no record of how this amount was used.

The Municipality:

The municipality was absent in the relief process. It only provided support to clean the streets, but this support began three days after the explosion. Roy Boukhary, an activist who was present since the first day, states that: "We were protesting in front of the ministry of energy because of the electricity cuts when the explosion happened. We went to the Martyrs' Square and we were in choc for a while. We were seven friends, we posted on Facebook for people to start helping with the relief process. We went every day since none of the state institutions was helping. We tried to cover a city per day". He added, "the municipality started working on Friday. The explosion took place on Tuesday. They started sweeping the glass in front of the media and cameras, when in fact there was nothing to sweep anymore by then."

Roy added that they clashed with the municipality and the security forces. "One day in Gemayze, there was hope that someone is still alive under the rubbles. Yet the municipality had stopped working since it was late at night. This angered a lot of volunteers and activists. We even demanded the machines to come and suggested compensating them. The disregard that they had for the soul that was supposedly alive angered everyone".

The State of Emergency:

Based on the provisions of article 1 of the decree number 52: "A state of emergency or a military zone is declared in all or part of the Lebanese territory when the country is exposed to an imminent danger resulting from an external war, armed revolution, acts or disturbances that threaten public order and security, or when events take the nature of a disaster".

Article 2 of the aforementioned decree states: "The state of emergency or the military zone is declared by a decree taken by the Council of Ministers, provided that the Parliament meets to consider this measure within eight days, even if it is not in session".

I- THE RELIEF PROCESS

Article 65, paragraph 5, of the Constitution stipulates that: “The legal quorum for a Council meeting shall be a two-thirds majority of its members. It shall make its decisions by consensus. If that is not possible, it makes its decisions by vote of the majority of attending members. Basic issues shall require the approval of two thirds of the members of the government named in the decree of its formation. The following issues are considered basic: The amendment of the constitution, the declaration of a state of emergency and its termination”.

The military authority benefits from the following jurisdiction in a state of emergency²:

- Arresting people and confiscate animals, goods and properties
- Searching and inspecting any building, house or other place at any time during the day or night subject to the approval of the competent Public Prosecutor’s office
- Giving orders to hand over weapons and ammunition, search for and confiscate them
- Imposing individual and collective fines
- Keeping the suspects detained
- Imposing forced residence on persons who engage in activity that pose a threat to security
- Prohibiting unauthorized public meetings or public meetings of a military nature or that pose a threat to security
- Giving orders to close cinemas, theaters, parks and various places of assembly on a temporary basis
- Imposing a curfew on people and cars in places and at times determined in a resolution
- Prohibiting any publication that poses a threat to security and taking the necessary measures to impose censorship on newspapers, publications, radio, television, movies and theaters
- Monitoring ports and ships in territorial waters
- Monitoring foreigners entering or leaving Lebanon
- Prosecuting persons who breach security or violate the constitution or any of the measures imposed by the army
- Investigating all cases by the military courts even after the emergency state is lifted

²-Annex 9 - ALEF state of emergency

I- THE RELIEF PROCESS

Therefore, the state of emergency allows the army to impose limitations on the freedom of expression and protest, and justifies the imprudent use of force in protests. This might be one of the reasons for the excessive violence in the 8th of August protests. As Roy stated, “the weapons were different and much harmful. However, when this was communicated to the army command, they argued that ‘the Lebanese constitution considers the right to demonstrate and assemble as a basic human right with the aim of expressing an opinion’. Therefore, the Lebanese army did not prevent gatherings within Beirut, despite the declaration of a state of emergency”. Which proves that the state of emergency allows the army, a security agency, to suppress a human right giving it the total freedom of acting in this regard. Which creates an environment of fear for some individuals already at risk.

Accordingly in an Interview with Abby Sewell, “although the emergency state might have been needed, it raised a lot of concerns for civil society and NGOs, fearing the restrictions that it might pause on their relief efforts”.

The state of emergency allows the army to have jurisdiction over the cases of persons who breach the constitution or any measures imposed by the army, meaning that the same body is putting the rules, implementing them and prosecuting the breaches.

A chronological overview of the state of emergency decrees:

- On August 5, 2020, the caretaker government, headed by resigned Prime Minister Hassan Diab, declared a state of emergency after the explosion of August 4, 2020.
- On 7/8/2020, Decree 6792 was issued by the government declaring a state of emergency from 4/8/2020 to 8/8/2020.
- On August 13, 2020 the Parliament convened and approved of the state of emergency.
- On August 17, 2020, Decree No. 6881 was issued and extended the state of emergency from 08/18/2020 to 9/18/2020.
- On 9/14/2020, the Secretary General of the Council of Ministers, Judge Mahmoud Makiya, issued a second administrative memorandum to extend the state of emergency until December 31, 2020.

I- THE RELIEF PROCESS

The declaration of a state of emergency included several violations to article 1 & 2 of decree 52 and article 65 of the constitution:

- The state of emergency was first declared on the 5th of August, and the decree was issued on the 7th, which created divergent opinions over the starting date of the state of emergency.
- The extension of the state of emergency should have been approved by the two thirds of the parliament (article 65 from the constitution) but it was extended by a decree.
- The second extension did not respect the provisions of article 65 of the constitution as well as the provisions of article 2 of the decree number 52 since it was declared by an administrative memorandum and not by a decree.
- The actual start of the state of emergency is 5th of August, and based on article 2 of the decree number 52 the parliament should convene within 8 days, but in practice it convened after 9 days.

After CLDH's enquiry on the opinion of the army command regarding the state of emergency, their answer was that they do not have the jurisdiction to argue its legality and that its declaration was needed due to the large impact of the blast that can only be covered by the Army in order to mitigate the fallout on all levels. Adding that none of the procedures stipulated in Article 4 of Legislative Decree 52/1967 affects any of the human rights stipulated in the Universal Declaration of Human Rights, and in the event that the army considers necessary to restrict one of these rights, then this restriction remains in a narrow scope.

I- THE RELIEF PROCESS

The 8th of August protests:

The 8th of August protest marked one of the most violent protests since 17 October 2019. Roy Boukhary and his friends were protesting since the beginning of the revolution. He affirmed in an interview with CLDH that the 8th of August protests were different from previous ones. That the weapons used by security forces were new and they were aiming directly at individuals. A number of Roy's friends were injured and some of them lost their sight. The gas bombs were even different than the ones usually used, "they burned our skin and immediately suffocated us. On that day, everyone went to the Martyr's Square knowing that this protest will be different. We were prepared, but the violence was too overwhelming that the square was empty within three hours".

Abby Sewell was going to cover the protest. However, even before the announced starting time, tear gas was covering the whole area. She stated in an interview with CLDH that: "The response was pretty aggressive. If I remember correctly the protest should have started at 3pm, I was with a group marching from Mar Mikhayel. It was not yet 3pm when we arrived at the square and it was already full of tear gas. I was not able to go to the parliament entrance where I think the confrontations were happening. When I arrived, the tear gas was so heavy that I could not enter".

Abby continued that the response was disproportionate compared to the response she witnessed in other protests. "Some protesters were probably throwing rocks, but that is normal. That's what usually happens. I remember the protests before the explosion. Sometimes they eventually would use the tear gas. But at first, they would use the water cannon or something else".

II-The investigations

Section 1: The Body in Charge of the Investigation

The first issue that was raised after the Beirut Port explosion was the assignment of the case to the Judicial Council (المجلس العدلي) by decree number 6815 in 11/8/2020.

Based on the provisions of article 356 of the Lebanese criminal procedures code:

“The Judicial Council shall try the following offenses:

- (a) The offenses defined in Articles 270 to 336 inclusive of the Criminal Code;
- (b) The offenses defined in the Act of 11 January 1958;
- (c) All offenses pertaining to weapons and ordnance transactions concluded or being concluded by the Ministry of National Defense, as well as related or ancillary offenses, particularly those defined in Articles 351 to 366 inclusive, Articles 376, 377 and 378 and Articles 453 to 472 inclusive of the Criminal Code, and in Articles 138 and 141 of the Military Justice Law”.

Cases concerning such offenses before the military and ordinary courts shall be referred to the Judicial Council which shall exercise both civil and military jurisdiction **pursuant to the referral decree.**

The assignment of the case to the judicial council raises two issues: the jurisdiction of the judicial council and the lack of independence of the judicial council.

The jurisdiction of the Judicial council:

The Judicial council tries crimes that are exclusively stipulated in article 358 of the Lebanese Criminal Code. These crimes are intentional and related to attacks on the external and internal security of the state, crimes related to armed gangs, terrorist criminal acts and some other specific crimes.

There are two main hypothesis to the port blast:

- The explosion was caused by the Ammonium Nitrate due to the lack of action from the state officials.
- The explosion was due to an external attack on the Ammonium Nitrate.

II-The investigations

Assigning the case to the Judicial Court alludes that the case is an attack even before the beginning of the investigations. Since the jurisdiction of the Judicial Council was exclusively specified by the law, consequently, if the explosion occurred as a result of state negligence then it does not fall under the jurisdiction of the Judicial council.

The Lack of Independence of the Judicial Council:

The judicial council is assigned cases by virtue of a decree, and the investigative judge in charge of the case is as well assigned by a decree.

Therefore, the authority that is in charge of assigning the cases to the Judicial Court, in the case of the Beirut Blast, is also part of the persons of interest in the case. This scenario poses question marks related to the independence and autonomy of the judicial council.

Section 2: A Chronological Overview of the Investigation

1. The government formed an investigative committee, led by Prime Minister Hassan Diab, that announced it would submit its findings to the Council of Ministers of Lebanon by 11 August, 2020. President Michel Aoun rejected calls for an international probe despite demands from world leaders³.
2. The Supreme Judicial Council appointed Judge Fadi Sawan as the forensic investigator.
3. On 5 August 2020, sixteen port officials were placed on house arrest⁴.
4. At a later stage, the general manager of the port, Hassan Koraytem, and the former director general of Lebanon's customs authority, Shafiq Merhi, were also arrested.
5. On 17 August 2020, the incumbent director-general of Lebanon's customs authority, Badri Daher, was also arrested.
6. State prosecutor Ghassan Oueidat ordered a travel ban on seven individuals, including Koraytem⁵.
7. Judge Fadi Sawan, summoned former Minister of Transportation and Public Works Ghazi Aridi, Labor Ministers Ghazi Zaiter, Youssef Fenianos and Michel Najjar, General Director of the Lebanese State Security Tony Saliba, Director General of Lebanon's Land and Maritime Transport Division Abdul-Hafeez Al-Qaisi, and General Director of General Security, Major General Abbas Ibrahim.
8. On September 1, 2020, Judge Sawan charged and detained Major Daoud Fayad, the head of General Security's office at the port, and Major Charbel Fawaz, the head of the Investigations Section at the port. (They will later be released by Judge Bitar)

3-<https://www.arabnews.com/node/1715991/middle-east> Arab news.

4-https://d.docs.live.net/5fc44816296d906d/Beirut%20Blast/Beirut%20Blast%20investigative%20procedures%20and%20violations.docx#_ftn2

5-https://d.docs.live.net/5fc44816296d906d/Beirut%20Blast/Beirut%20Blast%20investigative%20procedures%20and%20violations.docx#_ftn3

II-The investigations

9. On December 10, 2020, Judge Fadi Sawan charged three former ministers (Ali Hassan Khalil, Ghazi Zeaiter and Youssef Fenianos) and the prime minister (Hassan Diab) with negligence over the August explosion. Ghazi Zeaiter refused to appear before Sawan for questioning as a suspect. Fenianos, on the other hand, stated that he is ready to appear before the judge but “at my own timing”. Adding, “my conscience is clear and I will therefore meet the judge to tell him he violated article 40, 70 and 71 of the constitution”. The aforementioned articles relate to the immunity of parliamentarians and ministers from prosecution by the judiciary^[a1].

10. On the same date, Judge Sawan charged Saliba in relation to the August 4, 2020 explosion and interrogated him. Sawan scheduled another interrogation session with Saliba on December 17, 2020, but that session did not take place since the investigation was paused due to the complaint filed against him.

11. On December 15, 2020, Fenianos went to his questioning session but was informed that the session was postponed to a later date. In February 2021, Fenianos refused to be questioned.

12. In February 2021, the Court of Cassation decided to remove Sawan from the case after a request from two of the former ministers he charged: Ali Hassan Khalil and Ghazi Zeaiter.

13. On July 2, 2021, investigative judge, Tarek Bitar, submitted a request to the parliament to lift parliamentary immunity for former minister Zeaiter, who is a sitting parliamentarian, and a request to the Beirut and Tripoli Bar Associations to give permission to prosecute Zeaiter and Fenianos since both are lawyers.

He proceeded to charge Kahwaji, the former Director of Military Intelligence Brigadier General Kamil Daher, former Brigadier General in Military Intelligence Ghassan Gharzeddine, and former Brigadier General in Military Intelligence Jawdat Oueidat.

14. On July 28, the Beirut Bar Association gave Bitar permission to prosecute Zeaiter, and on July 29, the Tripoli Bar Association gave Bitar permission to prosecute Fenianos.

The parliament refused to lift these parliamentarians’ immunity.

15. On July 2, 2021, Judge Tarek Bitar requested that the prime minister grant him approval to interrogate Saliba as a suspect. Under Lebanese law, to prosecute state employees for a crime resulting from their official duties, judges need to obtain approval from the entity to which the employee belongs.

II-The investigations

Judge Tarek Bitar requested that parliament lift former Interior Minister Nohad Machnouk's immunity, as a sitting parliamentarian, in order to allow him to be prosecuted on charges of "homicide with probable intent" and negligence related to the August 4 explosion.

On the same day, Judge Bitar requested that the Interior Minister allow him to charge Director General of General Security Major, General Abbas Ibrahim.

16. On July 29, the Prime Minister's office released a statement saying that the office of the presidency had consulted with the Legislation and Consultation Authority at the Ministry of Justice on who had jurisdiction to approve this request, and was told that this power belonged to the Higher Defense Council. However, the opinion of the Legislation and Consultation Authority is advisory and is not mandatory, and the prime minister and president have the capacity to grant Judge Bitar's request (to add article).

17. On April 15, 2021, Judge Tarek Bitar released Major Charbel Fawaz on April 15, 2021 and Major Daoud.

18. On July 9, 2021, in a letter to the justice minister, the Caretaker Interior Minister Mohammad Fehmi rejected the judge's request to question Major General Abbas Ibrahim. Judge Bitar appealed Fehmi's decision. Oueidat (the cassation Public Prosecutor) stated that he does not have the authority to take a decision regarding Judge Bitar's request given his relationship with Ghazi Zeaiter (his brother-in-law).

The request was sent to Cassation Attorney General Ghassan Khoury. Khoury told Human Rights Watch as stated in their report "they killed us from the inside" that he denied Bitar's request to prosecute Ibrahim. (Based on the Lebanese Law, the appeal should be presented to the Cassation Public Prosecutor who is given 15 days to take his decision. Therefore the Cassation attorney general does not have jurisdiction on the matter) (to add article ...).

19. As of this date, the Parliament did not lift Nohad Machnouk's immunity.

20. Up until January 2022, a total of 18 lawsuits were presented against Judge Bitar. The latest is one filed by Ali Hassan Khalil and Ghazi Zeaiter requesting his removal from the case in front of Judge Naji Eid. Until the publishing of this research, the number of lawsuits reached 24.

21. The Higher Judicial Council approved of six judges to be appointed in the Court of Cassation Plenary Assembly

II-The investigations

22. The Minister of Finance refused to sign the list of names sent and approved by the Higher Judicial Council to appoint the members of the Court of Cassation Plenary Assembly for political reasons. Since this court needs to be appointed in order to issue a decision relating to the recusal case of judge Bitar presented by Youssef Fenianos and of judge Najji Eid, from Ali Hassan Khalil and Ghazi Zeaiter, who is in charge of the recusal case of Judge Tarek Bitar which put the Beirut port investigations since.

23. On 5, September 2022, the Minister of Justice Henry Khoury issued a letter to the Higher Judicial Council for the appointment of an alternate judge for the purpose of issuing decisions relating to the release of the suspects in the Beirut Blast. The Minister of Justice later suggested Judge Samaranda Nassar as the alternate Judge.

24. The Head of the Higher Judicial Council approved of the decision. However, the alternate judge is not yet appointed due to the inability of the HJC to attain the needed quorum, because the head of the HJC and other judges are refusing to attend meetings.

25. Several meetings took place, most of them were attended by 6 judges from the HJC, with Judge Ghassan Oueidat not attending the meetings because he previously stepped down from the case. The last meeting was on 27 September 2022, it resulted in a heated debate between J. Souhel Abboud and J. Afif Hakim, who are against the appointment of Judge Samaranda as the alternate judge, and the remaining four judges who are with the appointment of judge Samaranda Nassar.

Worth noting, Judge Abboud previously stated to media outlets that he is not against the appointment of an alternate judge for humanitarian reasons. However, he is against the appointment of J. Samaranda Nassar. J. Abboud continued that the alternate Judge needs to have certain criteria, more importantly neutrality, which is not present in Judge Nassar due to her alleged political affiliation.

26. Badri Daher, one of the blast detainees and the former Customs Director, filed a complaint to the Judicial Inspection Authority against head of the Higher Judicial Council, Judge Souheil Abboud, for obstructing the work of the HJC. The acting head of the Judicial Inspection Authority Malek Saaibi will either open an investigation if he considers the complaint serious, or dismiss it.

II-The investigations

27. On January 23, 2023, Judge Bitar's decision, widely regarded as a landmark in jurisprudence by numerous law scholars, marked the resumption of his investigation into the Beirut Blast. Subsequently, he scheduled questioning with Judge Oueidat, previous minister Hassan Diab.

28. On January 25, 2023, public prosecutor Ghassan Oueidat made a significant decision to release all detainees in the Beirut port case, citing Article 9, paragraphs 1 and 3 of the Universal Declaration of Human Rights as the basis. He also took legal action against Judge Bitar by lodging a lawsuit before the Court of Cassation's Plenary Assembly. In response, Bitar contested the legality of Oueidat's decision, stating that the latter had retracted his recusal without proper legal grounds and proceeded to make decisions in a case where he himself was an accused. Bitar asserted that this matter fell under his jurisdiction as the competent judge appointed by the government.

Following their release, Badri Daher, the former Lebanese customs chief, fled the country.

29. On January 26, 2023, Judge Oueidat issued a ruling to refer Bitar to judicial inspection, accusing him of "usurpation of power." Additionally, Oueidat prohibited the director and all staff of the public prosecution office from implementing any further decisions issued by Judge Bitar.

30. On June 6, 2023, a list of previously detained and suspended port staff received letters of appointment, reinstating them to their positions based on a decision taken by the Minister of Public works and transport.

31. On June 7, 2023, the Higher Judicial Council appointed Judge Habib Rezkallah to investigate the lawsuit brought by Judge Oueidat against Judge Bitar.

II-The investigations

Section 3: The Legal Violations

The Judicial Body in Charge of the Investigation:

The Beirut Blast case was referred to the Judicial Council (المجلس العدلي), a special court, thus violating international standards of fair trials. The case referrals are made based on a cabinet decree, on the recommendation of the justice minister. The justice minister appoints the judicial investigator after approval by the Higher Judicial Council. The Judicial Investigator leads the investigation and issues an indictment before the case is referred to the Judicial Council for trial. The Judicial Council is headed by the head of the HJC, and the cabinet appoints four other Judicial Council judges by decree based on the justice minister's proposal and approval by the HJC (some of its members are also appointed by the government and is not independent financially).

The issue of referring the investigation to the Judicial Council was frowned upon by the families of the victims who demanded to have the investigation in front of the civil courts based on their fear of political interventions.

Adding to that, the Judicial Council's jurisdiction is specified in the criminal procedure code, and the acts of negligence from the state, or state institutions, do not fall under its jurisdiction which only includes internal or external of aggression. Having the Judicial Council as the judicial body in charge of the Beirut Blast case is already considered an attack. If the investigation proves otherwise, the Judicial Council will have to declare its lack of jurisdiction on the matter.

Worth noting that, the Law remained silent in regards to the "lack of jurisdiction of the Judicial Council". Which led to the surgency of two legal opinions: the first stating that the investigative judge has the authority to declare his incompetence and the second stating that, in contrary, the investigative judge is bound by the decree that referred the case to the Judicial Council; therefore, he cannot discuss his jurisdiction on the matter.

Lastly, the law did not specify the procedures that follow the decision of lack of jurisdiction.

Immunities:

The investigation raised the issue of immunities in Lebanon whether it be for ministers' parliamentarians' public officials or lawyers.

Based on the Lebanese Law, ministers have legal immunity and can only be prosecuted by the "Supreme Council for Trying Presidents and Ministers", which requires a two-thirds vote in parliament.

II-The investigations

Judge Sawan wrote to parliament in November 2020 asking them to investigate 12 current and former ministers for their role in the August 4 explosion and then refer them to the “Supreme Council”.

However, the Lebanese Judges Association and a number of legal experts stated that the Supreme Council only tries ministers for crimes that are strictly related to their job. Therefore, any criminal offense outside the scope of their duties is not covered by the immunity and should be tried in front of the Criminal Court.

Article 40 of the Lebanese Constitution states that no parliamentarian may be prosecuted or arrested, during the session, for committing a crime, unless authorized by the Chamber, except in case of being caught in the act.

Although Nabih Berri, and the involved parliamentarians, manifested readiness to lift the immunities and be investigated, no decision was taken in this regard.

The public officials’ immunity to prosecute state employees for a crime resulting from their official duties, judges need to obtain approval from the entity to which the employee belongs to. However, none of Judge Bitar’s requests were approved.

The only parties that agreed to lifting immunities were the Beirut Bar Association that lifted the immunity of Ghazi Zeaiter on July 28, 2021. And on July 29, the Tripoli Bar Association gave Bitar permission to prosecute Fenianos.

Due Process Violations:

Based on Human Rights Watch, most detainees have been held at the headquarters of the military in Rihaniye without any mention to them or to their clients of the charges or evidence against them. They added that two officers were always present in their meetings with their clients.

Abuse of Right:

The Beirut blast investigation was filled with abuse of the law by the ministers and parliamentarians as well as the political class as a whole.

The abuse started with the immunities and the conservative explanation of the articles of the law and continued with the number of cases that were directed towards Judge Sawan and Judge Bitar.

Judge Sawan was removed from the case based on “legitimate suspicion” on February 2021 by the Court of Cassation after a request from two former ministers that he charged: Ali Hassan Khalil and Ghazi Zeaiter.

II-The investigations

Up until January 2022, a total of 18 lawsuits were presented against Judge Bitar, the latest of them a lawsuit from Ali Hassan Khalil and Ghazi Zeaiter requesting his removal from the case in front of Judge Najj Eid. Until the publishing of this research, the number of lawsuits reached 31.

Furthermore, Ali Hassan Khalil and Ghazi Zeaiter proceeded to file a lawsuit against Judge Eid in front of the Court of Cassation Plenary Assembly (الهيئة العامة لمحكمة التمييز). Yet, this body is currently not in session due to the delays in judicial appointments for approximately two years for political reasons. In March 2022, the Higher Judicial Council presented their nominations. However, the Minister of Finance refused to sign them up until the drafting of this report for political/confessional reasons.

Worth noting that two previous lawsuits to remove Judge Bitar filed by Ali Hassan Khalil, Ghazi Zeaiter and Youssef Fenianos were rejected from the Appeal Court considering it out of its jurisdiction. This decision was also appealed by the aforementioned parliamentarians.

Judge Mezher was appointed on the recusal file against Judge Nassib Elia who is in charge of the recusal case against Judge Bitar. However, Judge Mezher proceeded to ask Judge Bitar to give him the investigation file (knowing that it is confidential) for review, considering it part of the case that was assigned to him. Judge Oueidat later made it clear that the two cases are separate.

These practices are blatant abuse of the right of litigation.

Appointment of an Alternate Judge:

On the 5th of October 2022, the Minister of Justice, Henry Khoury, issued a decision to the HJC to appoint an alternate judge to proceed with the urgent procedures relating to the release of the detained in the Beirut blast.

The minister based his decision on humanitarian reasons. However, the decision itself lacks legal support for the following reasons:

Lack of legal support: there is no article or legislation that supports the appointment of an alternate judge due to humanitarian reasons.

II-The investigations

The mechanism of appointment and jurisdiction of the Judicial Court are detailed in the Lebanese Criminal procedure code from article 355 till article 367. The legislator stated the possibility to appoint additional judges for the position of the principal judge in the event of his death, withdrawal, dismissal or end of service (art 357-2). The Public Prosecution Office shall be represented by the Public Prosecutor for the Court of Cassation or by one of his assistants whom he delegates (art 357-3). If the First Presiding Judge of the Court of Cassation is unable to preside over the Council bench, the most senior appointed member shall preside(art 358).

In the aforementioned articles, the legislator established the events where a new judge can be appointed and for what position. However, he remained silent when it comes to the Investigating Judge in article 360-2: "The investigation shall be conducted by an Investigating Judge appointed by the Minister of Justice with the consent of the Supreme Council of the Judiciary". Therefore, there is no possibility of assigning an additional judge, let alone an alternate. proceeding in the appointments means that both the Minister of Justice and the Higher Judicial Council are creating a new judicial position and precisising its duties, which can only be done by the issuance of a law, not by a decision from the Minister of Justice.

Furthermore, stating that the work of the alternate judge will be limited to signing the release of the detained is not realistic. Since in order to do so, the judge has to inspect the file and investigate the facts in case the families of the detained challenged the release.

In an Interview with CLDH, William Noun, brother of Joe Noun, one of the victims of the Beirut blast, stated that their main focus is to get to the truth of what happened, whether the judge working on the case is judge Bitar or another one. As long as the procedures adopted are based on the rule of law and the judge is fair. He continued to state that the appointment of the alternate judge is illegal and will not solve the issue. And assured that the families of the Beirut blast victims are ready to proceed with a recusal case upon the appointment of the alternate judge. William added, "we fully trust Judge Souhel Abboud, and we let him know in our meeting that the only solution is in the signature of the judicial formations for the Court of Cassation Plenary Assembly".

Ultimately, the Beirut blast investigations remain on hold since September 2021, with the political parties intentionally abstaining from addressing the main issue which will result in the resumption of the investigations while they focus on creating illegal solutions to delude the public.

III-Recommendations

The Government:

Ensure the allocation of a specific amount of money from its budget to procure necessary equipment for rescue missions;

The Parliament:

- Revoke the immunity of suspected parties and individuals;
- Enact a law ensuring the independence of the judiciary with the following key provisions:
 - The election of Higher Judicial Council members by judges.
 - Inclusion of younger generations in the Higher Judicial Council.
 - Granting financial and administrative independence to the Judiciary and judicial committees separate from the Ministry of Justice.
 - Judges' appointments should be granted by the Higher Judicial Council based on their abilities and merits.
 - Ensure continuous workshops for judges on international and national laws.
 - Guarantee the independence of the disciplinary committee and the right for each judge to have a fair trial.
 - Provide judges with the right of expression and assembly, as long as they maintain their impartiality and independence.
 - Abolish Article 95 of Law 150/83, which pertains to the suspension of judges due to incapacity or behavior.
- Amend the provisions of Article 120 of the Lebanese Civil Procedures Law related to the suspension of a judge, limiting its usage in the same case and by the same parties against the same judge.
- Introduce a new law to restructure the national mechanism for rescue, clearly defining the roles of governmental bodies involved and their jurisdictions.

III-Recommendations

The Judiciary:

- Ensure an impartial and independent investigation without any national or international interference.
- Ensure detainees' rights are respected, and they are not subjected to any form of torture or ill-treatment. Detainment should be justified based on international standards and in line with the national criminal procedures law.

International Non-Governmental Organizations and Embassies:

- Monitor and document violations while advocating for an impartial investigation in line with international standards.
- Refrain from providing any financial support to state actors that hinder the implementation of measures to punish the perpetrators.
- Report violations committed to the relevant reporting mechanisms at the United Nations.

Annex:

In the context of reconstruction, the Army Command formed a specialized committee comprising a large number of specialized officers and civil engineers. It worked around the clock to survey the damages and classified the buildings as follows:

- **A : Archeological.**
- **B: Superdeluxe.**
- **C: Deluxe.**
- **D: Average.**
- **E: Below average.**

The monetary distribution was based on this classification as follows:

- **Financial aid allocated by the state:**

200 billion LBP, received by the army on three installments (100 billion, 50 billion, 50 billion). The distribution started on 26/10/2020, the area of coverage was shared the day before via media outlets, the official website of the army, and LAF News application. The priority was given to class D and E from the nearest to the blast area to the farthest. The amount of compensation for the damaged housing units ranged between 10% and 60%.

Individuals who did not receive the aid were receiving it from another organization and if not, they had the option to call the Army command.

- **Financial and material aid allocated by neighboring countries and national and international organizations:**

The army command worked closely with international and national organizations and provided them with the needed data from the geographical study, to support them in distributing the financial aid.

- **The wounded had to contact the National social security fund.**

