

Torture and detention in Lebanon

Introduction

Lebanon ratified the Convention Against Torture in 2000 and was the first country in the Middle East and North Africa that ratified the Optional Protocol to the UN Convention Against Torture in December 2010. Since the last review of Lebanon in 2015, the State conducted three main reforms in the legislative system aimed at preventing torture and protecting victims:

1. Establishing the National Preventive Mechanism pursuant to law 62/2016;
2. Criminalizing torture pursuant to law 65/2017;
3. Establishing stronger safeguards for persons in pre-trial detention through amendment of Article 47 of the Lebanese penal code.

However, the continuing and increasing instability in the country affects all central spheres of public life including political, economic, social, health and security aspects. Lebanon witnessed consecutive incidents that began with the Lebanese protests on the 17th of October 2019, leading to the resignation of the Cabinet on 29th October 2019. In February 2020, COVID19 started spreading in the country and showed a deficiency in the national health system in general and in particular inside places of detention. On August 4, 2020, a large amount of ammonium nitrate stored at the port of the city of Beirut exploded, causing at least 203 deaths, 6,500 injuries, and leaving an estimated 300,000 people homeless.

These events have further aggravated and already alarming situation of torture and ill-treatment inside places of detention. Further, the legislative and institutional reforms since the last review do not comply with international human rights standards and they are often ineffectively implemented. Therefore, this briefing note will focus on correcting the shortcomings in the existing reforms and ensuring better implementation in relation to the following issues:

1. Criminalization of torture;
2. Effective legal safeguards;
3. Condition of detention;
4. National Preventive Mechanism and civil society access to monitor places of detention.

Criminalization of torture

Past UPR recommendations

Put an end to the practice of torture, criminalize all acts of torture, and ensure that all allegations are duly investigated, and the perpetrators are prosecuted and punished (Recommending countries: Australia, Austria, Belgium, France, Germany, Holy See, Hungary, Ireland, Luxembourg, Netherlands, Switzerland, Turkey).

Current state of Implementation

In October 2017, Lebanon adopted an amendment to the Article 401 of the Lebanese Penal Code to criminalize the act of Torture. However, the new law (Law 65) fails to comply with the standards established in the UN Convention Against Torture and ignores recommendations made by the 2nd cycle of the UPR.

The law's most significant shortcomings are:

1. It does not criminalize ill-treatment;
2. It is restricted to only cover acts committed during the initial investigation, judicial investigation and trials. This is problematic because torture and ill-treatment also happens during the time of arrests, at the checkpoints or during the transportation of the suspects to the police station;
3. It does not provide an exhaustive mechanism for effective remedy, reparation and protection for victims and witnesses.
4. It continues to allow military court jurisdiction.
5. It includes statutes of limitations between 3-10 years, which can prevent many victims from having their cases investigated and prosecuted;
6. The penalties are not commensurate with the gravity of the crime, which limits its deterrent effect and diminishes the severe pain and suffering experienced by victims.

During a series of stakeholder consultations, several judges and general prosecutors have deemed the law unimplementable due to the above-mentioned shortcomings. Complaints have been filed in connection with the Lebanese protests but so far, no perpetrators have been prosecuted.

Recommendations

- a. Adopt a comprehensive anti-torture law in full compliance with the UN Convention against Torture with a specific focus on ensuring an appropriate definition, eliminating statutes of limitation and providing adequate reparations to victims.
- b. Ensure that only civilian courts have jurisdiction over cases of torture and ill-treatment.

Effective legal safeguards

Previous UPR recommendations:

End arbitrary detention and ensure effective legal safeguards for all persons deprived of their liberty (Recommending countries: Switzerland, France, Ireland).

Current state of Implementation

The Lebanese parliament adopted the amendment of Article 47 of the Criminal Code. This newly amended law provides detainee and criminal suspects fundamental legal safeguards to prevent arbitrary detention and torture and ill-treatment.

These amendments are fundamental to protect detainees at the early stage of detention but there are well-founded concerns that the improvements will not be implemented in practice by the judicial police and the judicial system more broadly. Most of the responsible authorities have a history of systematically ignoring the rights of detainees and in the case of the new amendments, the national security forces and a group of 240 judges have publicly expressed their opposition to the new amendments.

Effective and human rights compliant criminal investigation techniques are another important safeguard against torture, ill-treatment and arbitrary detention. In 2019, Restart trained 82 members of the National Security Forces on new investigative interviewing techniques developed to combine effective criminal investigation with full compliance with human rights standards. The initial results of the trainings are positive. However, a more formal adoption of the new

technique combined with more detailed training for a much larger group of actors in the criminal Justice system is needed before real human rights improvements can be expected.

Recommendations:

a. Make sure that the State actors responsible for implementing Article 47 of the Criminal code express public support for the new amendments and put in place a system to educate the national security forces and law enforcement personnel on implementing fundamental legal safeguards.

b. Establish a system of regular public monitoring and evaluation of the implementation of the fundamental legal safeguards provided by Article 47 and enable active civil society involvement in the process.

c. Formally adopt a new method of investigative interviewing in criminal proceedings and ensure that all relevant actors receive the necessary training.

Conditions of detention

Previous UPR recommendations:

Improve prison conditions including the welfare of detainees and continuing the reforms necessary for the protection of their rights (recommending countries: United States of America, Japan, Ecuador).

Current state of Implementation

Most places of detention in Lebanon are still far from conformity with the relevant minimum standards for treatment of prisoners. In most places, prisoners' most basic needs such as health, safety and security are not fulfilled. This is primarily caused by a lack of human and financial resources, the absence of a clear strategy for prison reform and the outdated decree nb. 14310 related to internal rules of prisons, detention places, and juvenile Centers.

Many places of detention are overcrowded, partially

due to the high number of persons in pre-trial detention. In addition, most cells have insufficient heating, lighting and ventilation and have sanitary facilities that do not meet the needs of the many detainees.

The health care systems in most places of detention are not able to address the many new and pre-existing physical and mental health needs of detainees. Health professionals working in places of detention lack awareness of international standards and mental health needs of detainees. As a result, many detainees suffer from long term physical and mental health problems and they are unable to seek appropriate care by themselves due to their detention.

In Restart Center's professional opinion, the accumulated effects of the conditions described above cause physical and psychological pain and suffering to detainees, which reaches a level that qualifies the situation as amounting to ill-treatment and in some circumstances torture.

The COVID-19 pandemic has put the prison system under further stress and clearly exposed many of its shortcomings. Prison authorities failed to take precautionary measures to protect prisoners from COVID-19. The only response was to limit contact with the outside world by restricting the visits of relatives, lawyers, and organizations operating inside places of detention. The judicial system has made some efforts to accelerate the trials, such as accepting release requests, remote interrogations, and courts inside Roumieh prison. Consequently, from March until October 2020, 1850 out of 7750 detainees were released from prisons and courthouses. However, many detention places remain overcrowded and do not allow detainees the necessary physical distancing.

Recommendations:

a. Transfer the administration of prisons from the Ministry of the Interior and Municipalities to the Ministry of Justice and incorporate the Ministry of Public Health to be in charge of the health and mental health services inside places of detention.

b. Reduce overcrowding due to pre-trial detention by accelerating the criminal judicial process, including through the establishment of clear targets and deadlines for the processing of cases.

c. Adopt a law to replace decree nb. 14310 to establish new and updated internal rules for prisons, detention places, and juvenile centers that are in compliance with the Mandela Rules and other relevant international standards.

d. Take precautionary measures to protect prisoners from COVID-19 including releasing elderly persons with health deficiencies, designating quarantine zones for newly arrived prisoners, providing facilities with personal hygiene and materials and putting a strategy for dealing with COVID-19 in the specific scenario of detention centers.

e. Provide medical information about the reasons for the quarantine, the right to consult a doctor of their choice, the right to seek legal assistance, and to ensure that a family member or any other person of their choice is notified that they are in the quarantine.

Monitoring places of detention

Previous UPR recommendations:

Establish without delay a national preventive mechanism in accordance with the Optional Protocol to the Convention against Torture with adequate personnel and financial resources for its effective and independent work (Recommending countries: United Kingdom of Great Britain and Northern Ireland, Luxembourg, Canada, Bahrain, Denmark, Czech Republic, Costa Rica, Australia, Brazil).

Current state of Implementation

In 2018, the Lebanese cabinet appointed the 10 members of Lebanon's National Human Rights Institution (NHRI) and in 2019, appointed the 5 members of the National Preventive Mechanism (NPM). Although this initiative was a positive step towards compliance with its OPCAT obligations and better human rights monitoring in Lebanon, there are serious concerns about the functioning of the NPM.

The appointment process lacked transparency and did failed to prioritize the individual candidates' expertise and knowledge relevant to the mandate. As a result,

the NPM membership does not possess the necessary expertise required to implement their technically demanding detention monitoring mandate. Even more concerning, the NPM is still not effectively operational. Two of the five members are not actively participating, and the remaining three members did not conduct any visits from the beginning of their mandate until the end of the COVID-19 lockdowns in the summer of 2020. This means that there was no independent monitoring of the everyday dire conditions in Lebanese detention centers nor of the conditions that detainees suffered during the three-month lock down. Since the end of the lock down, the NPM Restart is aware of one visit conducted by the NPM and this did not comply with its own mandate or procedures.

In parallel, Civil Society Organizations are doing their best to ensure compliance of the Lebanese places of detention with international human rights obligation. They provide services and support to detainees and try to use their experience in detention centers to convince authorities to better ensure the rights of persons deprived of their liberty.

Unfortunately, the Government only allow access for organizations that have strict services provision mandates and systematically reject those that also do human rights monitoring or advocate against the violations they witness. This misses an important opportunity to improve transparency and rights in places of detention and fails to implement the 2017 recommendations from the UN Committee against Torture on this issue.

Recommendations:

a. Amend law 62 so as to establish an NPM independent from the NHRI which has the necessary knowledge and experience to implement its human rights monitoring function.

b. Establish an objective and transparent procedure and criteria for allowing civil society organizations access to conduct human rights monitoring in places of detention.

About Restart Center for Rehabilitation of Victims of Violence and Torture

Restart Center for Rehabilitation of Victims of Violence and Torture is a Non-Governmental Organization (NGO) established in 1996, active in the field of Human Rights; specifically, the Rights to Rehabilitation and Prevention from Torture. The Center seeks to prevent torture practices, nationally and regionally, through awareness-raising, advocacy, and capacity building and to ensure victims of torture, ill-treatment and war-trauma obtains redress particularly through the provision of the means for as full rehabilitation as possible.

About the International Rehabilitation Council for Torture Victims (IRCT)

The IRCT strives to achieve “A World Without Torture.” As a network of 158 torture rehabilitation centres across 75 countries, we are the world’s largest membership-based civil society organisation providing rehabilitation to victims, preventing torture, increasing access to justice and fighting impunity. We believe that everyone has the right and obligation to stand up against torture. Together, we are a movement working in solidarity to advocate for the rights of victims, to shine a light on torture wherever it occurs and to end it.

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