



LEBANON

Follow-up to the Committee against Torture's recommendations

Alkarama Foundation – 4 September 2018

1. Introduction

In its Concluding Observations to Lebanon's initial review issued in May 2017, the Committee against Torture (CAT) highlighted as principal subjects of concern and recommendations the definition and criminalisation of torture, fundamental legal safeguards, the national human rights institution and national preventive mechanism, as well as internal prison complaint mechanisms.

The Committee requested that the State Party provide follow-up information on the implementation of these recommendations by 12 May 2018. The following report addresses the level of implementation of these recommendations, taking into account the comments provided by the State Party in its follow-up report submitted on 6 June 2018.

2. Definition and criminalisation of torture

The Committee against Torture recommended that Lebanon "define torture in full conformity with article 1 of the Convention", "ensure that such offences are punishable by appropriate penalties that take into account their grave nature", and "establish that there is no statute of limitations for the offence of torture".

The Law aimed at punishing torture and other cruel, inhuman or degrading treatment or punishment was adopted on 19 September 2017. We believe that this law fails to abide by the standards set forth in the Convention against Torture (UNCAT) and that therefore, the authorities have ignored the recommendation of the Committee and failed to implement it.

A restrictive definition of torture

In its article 1(a), the new law amends article 401 of the Penal Code by limiting the definition of torture to acts performed "during the investigation, preliminary investigation, judicial investigation, trials and executions of sentences". This amendment introduces restrictive elements to the definition of torture, in contravention of article 1 UNCAT. It creates a loophole that could lead to situations in which acts of torture committed before the preliminary investigation would not fall within the scope of this provision and would not be punishable.

Furthermore, the law does not criminalise cruel, inhuman or degrading treatment or punishment as defined in article 16 UNCAT. Although Lebanon is not required under article 4 of the Convention to criminalise such treatment as a separate offence, we believe that doing so would have strengthened the scope of the law.

Inadequacy of applicable penalties

Article 1(b) of the law states that "[a]nyone who perpetrates torture shall be liable to one to three years of imprisonment if the torture does not result in death or permanent or temporary physical or mental disability." Such penalties would usually apply to misdemeanours and are not commensurate with the gravity of the crime of torture. If the victim is to die as a result of torture, the perpetrator faces between 10 and 20 years in prison. This constitutes a violation of article 4(2) UNCAT.

Statute of limitations

The law also subjects acts of torture to a statute of limitations. Indeed, article 3 stipulates that the "prescribed period set forth in article 401 shall not start before the release of the victim from prison, detention or temporary detention if it is not followed by another prison sentence."

Impediments to the prosecution of perpetrators

The law fails to adequately address the prosecution of perpetrators since the investigation and prosecution of acts of torture can be vested with military courts. In their follow-up report, the Lebanese

authorities stated that “all judicial officers from the Internal Security Forces, army and General Security fall under this new law”.

However, the procedure for prosecuting members of the security forces remains unclear and contradictory. While article 15 of the Code of Criminal Procedure stipulates that the Public Prosecutor to the Court of Cassation decides whether to refer law enforcement officials – excluding members of the army – to an ordinary or a military court, the Military Code states that members of the army, Internal Security Forces (ISF) and General Security (GS), are to be brought before a military court (article 27). Moreover, they can only be prosecuted upon authorisation from the ISF or GS General Director or the army’s high command (article 36). This impedes the effective prosecution of perpetrators of torture since the military courts lack independence and impartiality.

3. Fundamental legal safeguards

The Committee against Torture recommended that Lebanon “[e]nsure that all detainees are afforded, in law and in practice, all fundamental legal safeguards from the very outset of their detention, including the rights to confidential access to a lawyer, particularly during investigation and questioning, to have the assistance of an interpreter if necessary, to be brought before a judge within the time prescribed by law, and to request and receive an independent medical examination. All medical examinations of detainees should be conducted out of hearing and, whenever security allows, out of sight of law enforcement officers; Make audio and video recording of interrogations of all persons questioned a standard procedure, keep the recordings in secure facilities and make them available to investigators, detainees and lawyers; Consider introducing a comprehensive criminal legal aid system, free of charge for those who do not have sufficient means to pay for legal representation.”

In their follow-up report, the Lebanese authorities merely refer to already existing legal provisions ensuring the abovementioned safeguards. According to credible sources – including local lawyers – since Lebanon’s initial review, individuals have continued to be deprived of fundamental guarantees, even when they are provided by law. Such violations are severer when individuals are arrested in cases of counter-terrorism by the military intelligence and brought before military courts. In particular, lawyers have reported to Alkarama that they continue to be denied access to their clients until they are brought before the Public Prosecution and formally charged. In addition, they have to rely on personal connections when trying to locate clients detained *incommunicado* in military detention centres. What is more, suspects continue to be routinely held in police custody for periods that exceed the 48-hour maximum limit, in some cases going as far as several months.

Since Lebanon’s review, we have received several testimonies from individuals who have been subjected to torture. Fearing for their safety, they did not wish their testimonies to be shared in the present report, except for one individual, who agreed under the condition of anonymity.

The individual in question was arrested in June 2017 in Zahle, West Lebanon, by officers from the information branch of the Internal Security Forces dressed in civilian clothing. They then took him, blindfolded, to their headquarters in Ashrafieh, Beirut. He was detained *incommunicado* for about one month, during which time he was repeatedly interrogated under severe torture. He was beaten on all parts of his body, including with a whip, and hanged from the ceiling. Four months later, he was forced to sign written “confessions”, and was referred to the military court. Before being released on bail pending trial, he was forced to sign a pledge agreeing not to speak to the media nor tell anyone about what happened to him while he was in detention.

Moreover, there is no mention in the state follow-up report of measures taken to ensure that parastatal militias – including Hezbollah – who perform law enforcement duties are subjected to legal oversight in order to ensure that detainees are afforded legal safeguards. On 19 May 2016, Alkarama documented the case of Diaa Ayouche, a Syrian refugee who was abducted by Hezbollah militants in the Hermel region in February 2014, and has remained enforcedly disappeared since. More recently, new allegations

of secret detention facilities run by Hezbollah have emerged in the media.¹ Indeed, reports allege that individuals were held in secret facilities in Dahya – a suburb south of Beirut – where they were subjected to torture and placed in solitary confinement.

4. National human rights institution and national preventive mechanism

The Committee against Torture recommended that Lebanon "complete the selection process for the appointment of the members of the National Commission for Human Rights in full compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles). The State party should ensure that the Commission effectively fulfils its mandate as a national preventive mechanism, with a dedicated structure and adequate resources for that purpose. It should also guarantee that the national preventive mechanism is granted access to all places of detention and is able to carry out unannounced visits, in accordance with its mandate and the provisions of the Optional Protocol to the Convention and in keeping with the guidelines on national preventive mechanisms issued by the Subcommittee on Prevention of Torture (CAT/OP/12/5)."

We recall that the law establishing a National Human Rights Institute (NHRI) was approved by the Parliament on 19 October 2016. The law also provides for the creation of a National Preventive Mechanism against torture (NPM). To date, the NHRI is not yet operational as no budget has been allocated.

On 21 May 2018, the ten members of the NHRI were nominated by the Cabinet. However, NGOs have voiced concerns over the appointed civil society representatives, affirming that they "[did] not feel represented".² In particular, they expressed concerns over the appointment of two members who were "outside the circle of human rights NGOs", including a General who served in the Internal Security Forces.³ Furthermore, the selection process lacked transparency since the full list of candidates and their resumes were never made public, despite repeated requests from civil society organisations.

Furthermore, despite holding parliamentary elections on 6 May 2018, the new Cabinet has still not been appointed. Local NGOs believe that the budget will only be discussed once a new government is appointed, and that it is unlikely, therefore, that a budget will be allocated to the NHRI anytime soon.

5. Internal prison complaint mechanism

The Committee against Torture recommended that Lebanon "establish a fully independent complaint mechanism with the authority to investigate promptly, impartially and effectively all reported allegations of and complaints about acts of torture and ill-treatment."

In their follow-up report, the authorities merely list the institutions that are allowed to visit detention facilities. They provide no concrete information as to the impact of these internal mechanisms, with such a lack of transparency hampering their effectiveness. Moreover, they state that the Internal Security Forces' human rights office will launch an internal complaint system in Roumieh prison, however, this has not been implemented to date.

Moreover, it is of particular concern that detention centres, including military barracks, under the jurisdiction of the Ministry of Defence – where acts of torture occur most frequently – are left completely outside the scope of this monitoring mechanism.

¹ Al Arabiya English, *New accusations against Lebanon's Hezbollah of running secret Beirut prisons*, 19 August 2018, <http://english.alarabiya.net/en/News/middle-east/2018/08/19/New-accusations-to-Lebanon-s-Hezbollah-of-running-secret-prisons-in-Beirut-.html> (accessed on 24 August 2018).

² Federica Marsi, "Human rights body appointed at long last", *The Daily Star*, 23 May 2018, <http://www.dailystar.com.lb/News/Lebanon-News/2018/May-23/450469-human-rights-body-appointed-at-long-last.ashx> (accessed on 24 May 2018).

³ *Ibidem*.