



# Universal Periodic Review: Lebanon

## Second Cycle

### Submission to the Stakeholders' Summary

**Alkarama Foundation, 23 March 2015**

<b>1. Background and framework</b> .....	<b>2</b>
1.1 Scope of international obligations.....	2
1.2 Constitutional and legislative framework .....	2
1.3 Institutional and human rights infrastructure .....	3
<b>2. Cooperation with human rights mechanisms</b> .....	<b>3</b>
2.1 Cooperation with treaty bodies .....	3
<b>3. Implementation of international human rights obligations</b> .....	<b>4</b>
3.1 Right to life, liberty and security of the person.....	4
3.1.1. The death penalty.....	4
3.1.2. Arbitrary detention.....	4
3.1.3. Torture: systematic practice.....	5
3.2. Right to a fair trial.....	6
3.2.1. Compliance with the guarantees of a fair trial.....	6
3.2.2. Special courts.....	6

1. The present contribution falls within the framework of the second cycle of the Universal Periodic Review (UPR) pertaining to the general human rights situation in Lebanon and takes into account the recommendations made in November 2010.

## **1. Background and framework**

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2. The political paralysis, as well as the Syrian conflict that broke out in March 2011, have marked Lebanon over the past four years and have had repercussions both on the level of sectarian violence and the refugee issue.

3. In January 2011, the resignation of ten cabinet members, from Hezbollah, the Change and Reform bloc and the Amal Movement, in protesting the establishment of a special tribunal to investigate the assassination of former Prime Minister Rafik Hariri, led to the fall of the government. It consequently took five months of negotiations for a new government to be formed. During 2011 and 2012, the sectarian tensions fuelled by the Syrian conflict led to violent clashes between supporters and opponents of the Syrian President, causing a number of casualties, particularly in Beirut, Tripoli and Saïda.

4. Similarly, 2013 saw a significant escalation of internal violence taking different forms: armed clashes and car bombs in Tripoli and Saïda, abduction of civilians, or bombings by the Syrian army of border areas northeast of the country. After a period of relative political stability in 2012, the Prime Minister handed in his resignation in March 2013, following a disagreement over the extension of a senior security official's mandate and the organisation of the parliamentary elections scheduled for June. As such, in the absence of consensus between the different political factions, the Parliament voted to extend its own term in May and postponed the elections until November 2014.

5. In May 2014, whilst the President's mandate had expired, the presidential elections were postponed indefinitely, failing an agreement between political parties. In November, citing a lack of agreement on the electoral law, the Parliament decided to extend its mandate until 2017. In a context of heightened sectarian unease, the country again experienced a wave of suicide bombings and particularly violent clashes, notably between armed groups and the Lebanese army in the northeast of the country, near Aarsal, following the arrest of an alleged member of the Al-Nusra Front.

6. Finally, since the previous UPR, the ramifications of the Syrian conflict were particularly evident with the arrival of a growing number of refugees, which exceeded one million in 2014, more than a quarter of the local population. Moreover, in October 2014, the authorities took the decision – contested by many human rights organisations – to close its borders in order to prevent the arrival of new refugees.

### **1.1 Scope of international obligations**

7. Lebanon is a party to the main international human rights instruments, including the International Covenant on Civil and Political Rights (ICCPR), as well as the Convention against Torture (CAT) and its Optional Protocol.

8. Lebanon has neither ratified the Convention Against Enforced Disappearance (ICCPED)<sup>1</sup> nor accepted the individual complaints procedures under the Optional Protocol to the ICCPR and article 22 of the CAT.

### **9. Recommendations:**

- a) Ratify the said Conventions;
- b) Accept the individual complaints procedures.

### **1.2 Constitutional and legislative framework**

10. At the first UPR, Lebanon agreed to amend its legislation and bring it in conformity with the CAT.<sup>2</sup> However, this commitment has not been honoured.

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<sup>1</sup> Despite the commitments made during the last UPR, by accepting recommendations n.84.1 (Germany) and n.84.2 (Spain).

<sup>2</sup> In particular, to introduce a definition of torture in line with the Convention under the accepted recommendations n.80.13 (Netherlands, Ireland) and n.80.14 (Germany), and to criminalise all acts of torture by ensuring that all allegations thereof are duly investigated and punished, as required by recommendation n.80.15 (Netherlands, Slovakia, Belgium).

11. Indeed, a draft law to amend the Criminal Code (CC) so as to define and criminalise torture, which had been considered by the Parliamentary Committees since 2012, was finalised in June 2014 by the Administration and Justice Committee. Presented to the Chamber of Deputies, the latter could not vote on the text because it refuses to hold a new session until a President is elected.

12. **Recommendation:**

- a) Amend the legislation to bring it in conformity with the CAT and in particular: define and criminalise all acts of torture, ensure that all allegations thereof be duly investigated, that those responsible be punished, and that victims are guaranteed the right to an effective remedy.

**1.3 Institutional and human rights infrastructure**

13. Despite the acceptance of several recommendations during its first UPR,<sup>3</sup> to date, Lebanon has neither a National Institution for Human Rights (NHRI) in conformity with the Paris Principles, nor a National Preventative Mechanism (NPM) as provided for by the Optional Protocol to the CAT (OPCAT) ratified in 2008.

14. In November 2011, a draft law establishing a NHRI – encompassing a “Committee for the Prevention of Torture” that would act as an NPM – was introduced in the Parliament, but remains pending before the Chamber of Deputies, as with the draft law on the criminalisation of torture.

15. Moreover, Alkarama notes that despite the commitments made in 2010, Lebanon has failed to set up any National Commission of Inquiry tasked with investigating the fate of disappeared persons.<sup>4</sup> In fact, in 2012, Lebanese civil society proposed a bill in the Parliament on enforced disappearances, providing for the establishment of such a Commission. In October of that year, the Minister of Justice similarly submitted a draft decree envisioning the creation of a Commission. However, the dissolution of the government in March 2013, and the political stalemate that ensued have blocked any progress at either parliamentary or governmental level.<sup>5</sup>

16. In September 2014, the government decided to make the 2000 report of the Inter-ministerial Commission for investigating the fate of disappeared persons available to the victims’ families.<sup>6</sup> Whilst this decision is a positive development, it remains insufficient to definitively resolve the issue of the enforced disappearances within the country.

17. Finally, contrary to the commitments made in 2010, a directorate general for human rights within the Ministry of Justice has not been established, nor has the National Human Rights Action Plan, introduced in 2012, been adopted.<sup>7</sup>

18. **Recommendations:**

- a) Establish a NHRI in conformity with the Paris Principles;
- b) Establish a NPM, independent from the NHRI, and in conformity with the obligations owed under the OPCAT;
- c) Create a National Commission of Inquiry on the fate of victims of enforced disappearance.

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## **2. Cooperation with human rights mechanisms**

### **2.1 Cooperation with treaty bodies**

19. Despite the commitments made in 2010,<sup>8</sup> Lebanon has neither submitted its initial report to the Committee against Torture, nor its third periodic report to the Human Rights Committee, due since 2001.

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<sup>3</sup> Recommendations n.80.8 (Egypt) and n.80.9 (Algeria, Greece, Sudan) called for the establishment of a national human rights institution; whilst recommendation n.80.17 (Canada, Belgium) sought the establishment of a national mechanism for the prevention of torture.

<sup>4</sup> Contrary to recommendations n.84.3 (Mexico) and n.84.4 (Egypt).

<sup>5</sup> International Centre for Transitional Justice, *Lebanon: Failing to Deal with the Past – What Costs to Lebanon?*, January 2014, pp. 16-18, , <https://www.ictj.org/sites/default/files/ICTJ-Lebanon-Impunity-Report-2014.pdf> (accessed 9 February 2015).

<sup>6</sup> Hadeel Farfour, *Lebanese government releases information about the disappeared*, Alakhbar, 22 September 2014 <http://english.al-akhbar.com/node/21632> (accessed 9 February 2015).

<sup>7</sup> Accepted recommendations n.80.10 (Saudi Arabia) and n.80.11 (Russian Federation).

20. **Recommendation:**

- a) Submit overdue periodic reports to treaty bodies.

**2.2 Cooperation with special procedures**

21. On 17 March 2013, in conformity with its commitments, Lebanon issued a standing invitation to the special procedures.<sup>9</sup> However, it refused to implement a number of recommendations with respect to individual cases.

22. Alkarama noted that two Opinions of the Working Group on Arbitrary Detention (WGAD), calling for the immediate release of the victims, had not been respected. The first opinion, adopted in November 2012, concerned the arbitrary detention of Ms. Badria Abu Meri:<sup>10</sup> two years later, she remains detained in Baabda prison. The second opinion, adopted in November 2014, concerns the arbitrary detention of Mr. Tarek Mostafa Marei and Mr. Abdel Karim Al Mustafa: despite calls for their release, they continue to be held.<sup>11</sup>

23. **Recommendations:**

- a) Implement without delay all the Special Procedures' recommendations, including the WGAD's opinions;
- b) Cooperate with all Special Procedures' mandate holders.

### **3. Implementation of international human rights obligations**

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#### **3.1 Right to life, liberty and security of the person**

##### **3.1.1. The death penalty**

24. The death penalty is provided for under article 302 of the Penal Code and, by virtue of a 2001 amendment, is left to the sole discretion of the judge. Whilst a *de facto* moratorium on the death penalty has existed since 2004, 28 death sentences were pronounced – primarily by the "Judicial Council" – between January and February of 2015 alone.<sup>12</sup>

25. In September 2011, the Parliament voted in favour of an amendment to Law No. 463/2002 on the application of penalties, which created a legal status for those who are "sentenced to death without being executed". Alkarama fears that this measure is an excuse to delay the abolition of the death penalty: in this regard, it must also be noted that at the last UPR, Lebanon rejected nine recommendations to abolish the death penalty.<sup>13</sup>

26. **Recommendation:**

- a) Establish a *de jure* moratorium on the death penalty, to the effect of its total abolition.

##### **3.1.2. Arbitrary detention**

27. During the previous UPR, no recommendations were made with regard to the issue of arbitrary detention. Yet, this issue remains a major cause of concern, both in terms of the excessive use of pre-trial detention and the systematic violation of procedural guarantees.

28. In 2014, 63% of prisoners were held in pre-trial detention,<sup>14</sup> the duration of which can be especially excessive and last several years. Indeed, article 108 of the CCP authorises unlimited

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<sup>8</sup> Accepted recommendations n.80.38 (Belgium) and n.80.36 (Oman).

<sup>9</sup> Accepted recommendations n.84.13 (Mexico) and n.84.14 (Spain, Poland).

<sup>10</sup> Opinion of the Working Group on Arbitrary Detention No. 44/2012, 30 July 2012; see also: Alkarama, *Lebanon: UN Working Group calls for immediate release of woman inmate from Baabda prison* <http://en.alkarama.org/component/content/article/26-lebanon/communiqu/1036-lebanon-un-working-group-calls-for-immediate-release-of-woman-inmate-from-baabda-prison>, 24 January 2013 (accessed 9 February 2015).

<sup>11</sup> Opinion of the Working Group on Arbitrary Detention No. 48/2014, 19 November 2014; see also: Alkarama, *Lebanon: UN Calls for the Immediate Release of Two Lebanese Citizens Arbitrarily Detained for over 6 Years*, <http://en.alkarama.org/lebanon/1592-lebanon-un-calls-for-the-immediate-release-of-two-lebanese-citizens-arbitrarily-detained-for-over-6-years>, 15 January 2015 (accessed 9 February 2015).

<sup>12</sup> Hands off Cain, Lebanon, <http://www.handsoffcain.info/bancadati/schedastato.php?idcontinente=23&nome=lebanon> (accessed 9 February 2015).

<sup>13</sup> Recommendations n.82.4 to 82.12.

<sup>14</sup> Patricia Khoder, *Au Liban, 63% des prisonniers sont en détention provisoire*, L'Orient Le Jour, 30 April 2014 <http://www.lorientlejour.com/article/865200/la-situation-des-prisons-au-liban-au-coeur-dune-conference-conjointe-usj->

periods of pre-trial detention, most notably for alleged “offenses against state security” and “crimes of terrorism”.

29. The use of pre-trial detention is widespread: according to the data collected, between August and October 2014 – during clashes in Aarsal and Tripoli – over 6000 persons were arrested without a warrant, primarily following allegations of “terrorism”. The vast majority of these individuals were foreigners (Syrian and Palestinian) or minors.

30. Finally, the systematic violation of all procedural guarantees constitutes another cause of arbitrary detention.

31. **Recommendations:**

- a) Bring to an end the use of indefinite pre-trial detention;
- b) Release all those detained without a legal basis.

**3.1.3. Torture: systematic practice**

32. Since the last UPR, the practice of torture is yet to be eradicated.<sup>15</sup> In October 2014, the Committee against Torture issued its Conclusions concerning the inquiry on the practice of torture in Lebanon<sup>16</sup> following a communication submitted by Alkarama.<sup>17</sup>

33. The Committee concluded that “torture in Lebanon is a pervasive practice that is routinely used” for the “purpose of investigation” and “securing confessions to be used in criminal proceedings”, designating primary responsibility to the internal security forces and military intelligence services, as well as to non-state actors – among which Hezbollah – notably during unlawful arrests and the subsequent handover of prisoners to the security agencies.

34. The Committee thus formulated 34 recommendations for the authorities to undertake reforms, notably to unambiguously reaffirm the absolute prohibition of torture, to define and criminalise such acts, and hold any perpetrators personally responsible, prosecuting them and apply appropriate penalties. The UN has equally called to complete the establishment of a NPM and to authorise NGOs to undertake prison inspections.

35. Despite the adoption of a new Code of Conduct for its security forces in 2012,<sup>18</sup> cases of torture continue to be reported.

36. Finally, many Syrian citizens have been deported to their country of origin, in violation of the principle of non-refoulement (article 3 CAT). For example, three individuals – who had been detained since 2006/2007 – were expelled to Syria in May 2012, where they were handed over to the Syrian Military Intelligence Services.<sup>19</sup>

37. **Recommendations:**

- a) Bring a definitive end to the practice of torture and reject any statements obtained thereof;
- b) Ensure that conditions of detention are in conformity with international standards;
- c) Investigate, prosecute, and punish the perpetrators of torture with penalties reflecting the gravity of their actions;
- d) Ensure that Security Services members respect international standards and comply with the new Code of Conduct;
- e) Respect at all times the principle of non-refoulement;

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[ue.html](#) (accessed 9 February 2015).

<sup>15</sup> Despite Lebanon’s acceptance of recommendation n.81.4 (Belgium).

<sup>16</sup> UN Committee against Torture, *Summary account of the result of the proceedings concerning the inquiry on Lebanon*, A/69/44, paras. 100-115 and Annex XIII.

<sup>17</sup> Alkarama, *Torture in Lebanon: Time to Break the Pattern*, 2009, <http://en.alkarama.org/lebanon/reports/1282-lebanon-alkarama-s-report-time-to-break-the-pattern> (accessed 18 February 2015).

<sup>18</sup> Conceptualised and drafted with support of the High Commissioner for Human Rights and thereby partially implementing recommendation n.80.29 (Saudi Arabia).

<sup>19</sup> These individuals are Mr. Moaz Abdelghani Shousha, Mr. Mohammed Aderrazzak Al Wafaei, and Mr. Ahmed Mohammed Asili. See: Alkarama, *Lebanon: Implemented or imminent expulsion from Lebanon of seven men to Syria*, 29 May 2012, <http://en.alkarama.org/lebanon/press-releases/926-lebanon-syria-implemented-or-imminent-expulsion-from-lebanon-of-seven-men-to-syria> (accessed 9 February 2015).

- f) Implement all recommendations made by the Committee against Torture.

### **3.2. Right to a fair trial**

#### **3.2.1. Compliance with the guarantees of a fair trial**

38. Since the previous UPR, numerous persons continue to be detained following unfair trials. The cases documented by Alkarama demonstrate that the practice of *incommunicado* detention is commonplace, in particular during the period of police custody. The impossibility for those detained to communicate with their lawyers constitutes a violation of the rights of the defence.

39. These unjustified procedural delays unnecessarily extend the length of pre-trial detention. In addition, in violation of article 77 CCP, confessions obtained under torture are frequently used as the sole evidence in a case.

40. This is why the detention of Mr. Tarek Mostafa Marei and Mr. Abdel Karim Al Mustafa, sentenced to 15 years in prison on 6 August 2013, was described as "arbitrary" by the WGAD, since it resulted from a trial marred by irregularities, including the admission of evidence extracted under torture during the period of *incommunicado* detention.

#### **41. Recommendation:**

- a) Respect the fair trial guarantees and release those arbitrarily detained.

#### **3.2.2. Special courts**

42. Lebanon has two special courts: the Military Tribunal and the Judicial Council. Neither is independent from the Executive, nor do they offer sufficient judicial guarantees to protect the rights of the accused. During the last UPR, the recommendation relating to these jurisdictions was not accepted.<sup>20</sup>

43. The Military Tribunal raises serious concerns given the large number of civilians being brought before it, despite the fact that the WGAD previously opined that Military Tribunals should never have the competence to try civilians, given their lack of independence and impartiality.<sup>21</sup> Furthermore, according to Law No. 24/68 of 1968, the Tribunal reports to the Ministry of Defence and offers fewer safeguards, such as the optional presence of a lawyer or the possibility of holding secret trials. In December 2013, the Military Tribunal sentenced journalist Rami Aysha, who was arrested and tortured by the Military Intelligence Services.<sup>22</sup>

44. The proposed reforms limiting the competence of the Military Tribunal to members of the armed forces alone, as initiated in 2013 and 2014 have been unsuccessful thus far.

45. The Judicial Council is considered to be a political body, since the Executive appoints its members and its referral is made by a decree of the Council of Ministers. Moreover, its decisions cannot be appealed. Alkarama has documented numerous cases of persons arrested in the "Nahr al Bared" file,<sup>23</sup> who were secretly detained, tortured, and after seven years of pre-trial detention, sentenced by way of unfair trials to harshly punishments, including the death penalty. The reforms initiated by the Ministry of Justice in 2012 aimed at ensuring the Judicial Council's independence never fully materialised.

#### **46. Recommendations:**

- a) Amend the law to limit the Military Tribunal's jurisdiction to members of the armed forces;
- b) Abolish the Judicial Council and ensure that all persons who have been subjected to an unfair trial are retried or released.

<sup>20</sup> Recommendation n.82.14 (Germany).

<sup>21</sup> Opinion of the Working Group on Arbitrary Detention No. 27/2008, 12 September 2008, para. 40.

<sup>22</sup> Alkarama, *Liban : Absence d'enquête sur les tortures subies par un journaliste d'investigation*, 14 March 2013, <http://fr.alkarama.org/component/content/article/81-liban/communiqu/1251-liban--absence-denquete-sur-les-tortures-subies-par-un-journaliste-dinvestigation> (accessed 9 February 2015).

<sup>23</sup> Alkarama, *Liban : Affaire « Nahr Al Bared » : l'interminable justice*, 4 June 2014, <http://fr.alkarama.org/liban/item/1377-liban-affaire-nahr-al-bared-l-interminable-injustice> (accessed 9 February 2015).