

## Annex D – Torture in Lebanon: Time to Break the Pattern Compilation of recommendations from key NGO reports

### **Recommendations made by ALEF**

*(L'Association Libanaise pour l'Education et la Formation (ALEF), "Lebanon : The Painful Whereabouts of Detention" (February 2008) and L'Association Libanaise pour l'Education et la Formation (ALEF) annual report, The Human Rights practices in Lebanon – 2002, 2002 (relevant excerpts p.15-17).)*

### **ALEF calls on the following stakeholders in Lebanon to take action:**

#### **To the Lebanese Government**

As to its obligation to report periodically to the CAT Committee under article 19 of the CAT convention:

1. Send its overdue reports to the Committee and present its next periodic report due in 2009.

As to its relations with the United Nations special procedures:

2. Invite the Special Rapporteur on torture and other cruel, inhuman, degrading treatment or punishment to

visit Yarzeh prison and any other prison or detention centre under its control.

#### **To the Lebanese Parliament**

3. Ensure consistency of national laws with the UNCAT, through undertaking the following measures:

3.1. The term "cruel, inhuman or degrading treatment or punishment" should be interpreted so as to extend the widest possible protection against abuses, whether physical or mental, and in respect of the norms and principles of detention and imprisonment as agreed by the Congress on the Prevention of crime and the treatment of offenders (1955) and UN General Assembly resolution A/ RES/43/173 (1988).

3.2. Adopt the principles embodied in the Code of Conduct for Law Enforcement Officials, UNGA resolution 34/169 of 17 December 1979, especially articles 5 and 6 of the Code<sup>1</sup>, and reflect these principles in national legislation and establish effective mechanisms to ensure the internal discipline, external control and supervision of law enforcement officials.

3.3. Define torture by including all its elements of crime, mental and material, in line with its definition in the UNCAT.

3.4. Consider torture a criminal offence – currently petty crime – after raising the penalty to temporary detention, as a minimum, according to article 179 of the criminal code<sup>2</sup>.

3.5. Amend article 401 of the criminal code in order to enclose all violent practices that constitute the elements of crime of torture, as follows:

"For the purposes of this Article, the term "torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public

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<sup>1</sup> Article 5 stipulates that no law enforcement official may inflict any act of torture and ill-treatment or invoke superior orders or exceptional circumstances. Article 6 follows that Law enforcement officials should fully protect the health of persons in their custody and take immediate action to secure medical attention when required.

<sup>2</sup> Death Penalty should definitely not be considered as the highest sentence. ALEF has called on the Lebanese government on several occasions to abolish the death penalty. See ALEF's press release in this regard, ALEF calls on the Lebanese State to immediately abolish death penalty, l'Orient le Jour, 11 October 2007.

official or other person acting in an official capacity. For such an offence, the minimum period of imprisonment is of five years and includes the immediate suspension of the authorities of the instigator or the perpetrator. A superior who knew or had reasons to know that torture was being perpetrated by individuals acting under his authority or responsibility and failed to take all necessary and reasonable measures in their power to prevent their commission, will be sentenced by minimum period of imprisonment of five years Anyone found guilty of instigating or having knowledge that torture was being perpetrated by a public official or other person acting in an official capacity who failed to inform the competent authorities will be sentenced to a minimum of one year of imprisonment”

3.6. Prohibit the use of information obtained under duress before courts of law.

3.7. Grant medical doctors a prominent and independent role in checking individuals in detention centers.

4. Ratify the Optional Protocol of the UN CAT.

5. Access to the Rome Statute of the International Criminal Court.

**To the Ministry of Justice:**

6. Include in the criminal procedures law the following data for registration and sentence individuals convicted of not having respected such procedures:

6.1. The identity of the detainee

6.2. The date, time and place of detention

6.3. The detaining authority the individual

6.4. The ground for detention

6.5. The state of health of the detainee upon admission and any changes thereto

6.6. The time and place of interrogations, with the names of all interrogators present

6.7. The date and time of release or transfer to another detention facility

7. Offer a medical examiner as a routine practice, as follows:

7.1. Allow for a medical check during the day of arrest and immediately after each interrogation, with no need for a specific request from the detainee.

7.2. Ensure that the medical examiner is not a regular visitor to the detention center and/or in relation (parental or others) with the General Prosecutor in charge and/or the detectives conducting the interrogation.

7.3. Ensure that the examination takes place in private and without the presence of any officer or public official.

8. Establish a monitoring unit within the ministry of justice whose members are in charge of conducting visits to detention centers to ensure respect of Lebanese laws and rights of detainees by the ISF officers and detectives, as follows:

8.1. The Unit should include observers from the civil society and NGOs to ensure its transparency.

8.2. Members of the monitoring Unit should be able to attend interrogations at any detention centre

or penal institution to ensure that the conduct of the interrogators is strictly in conformity with

the requirements of the CAT Convention.

8.3. The Unit should directly report to the head of the judiciary police, the head of the ISF and the

Ministers of Justice and Interior.

8.4. Its reports should be also submitted to the UN Committee on Torture and be made accessible and

public to the civil society.

9. Take appropriate judicial measures to close the detention center of Hobeich and bring to justice those who were and/or are still in charge of interrogations in its premises. Provide detailed statistical data, disaggregated by sex, ethnicity and conduct, on complaints related to torture and ill-treatment allegedly committed by law-enforcement officials, along with investigations, prosecutions, penalties and disciplinary action relative to such complaints.

### **To the Lebanese Judiciary**

10. Refuse taking up any evidence obtained under torture.

11. Investigate any breach of the CAT Convention along with any alleged torture case that come to its knowledge promptly and impartially.

12. In addition, and after establishing the aforementioned monitoring unit, the judicial authority when being informed by the unit's reports via the minister of justice, should file when necessary any criminal proceedings against alleged torture cases mentioned in the unit's report.

13. Present and make public in a formal fashion any proceeding evidence where there is knowledge or belief that it has been obtained under torture.

14. Provide, according to legislative incorporations in the criminal procedures law and the criminal law, means whereby an individual can challenge the legality of any evidence suspected of having been obtained by torture in any proceeding.

15. Take effective judicial measures not only to repress but also to prevent acts of torture according to article 2 of the CAT convention.

16. Make public the result of investigations into alleged acts of torture and ill-treatment by the Lebanese Army at Yarzeh and Kobbah prisons during and after the armed conflict in Nahr el-Bared refugee camp, particularly those revealed in this report and provide for independent review of the conclusions where appropriate.

### **To the Ministry of Interior:**

#### **As to the management of prisons and detention centers:**

17. Immediately transfer the management of prisons from the Ministry of Interior to the Ministry of Justice pursuant of the 1964 law decree n°17315.

18. Immediately close the Yarzeh prison under the control of the Ministry of Defense and transfer its detainees to other prisons.

19. Upgrade the prison conditions, especially Roumieh and Zahle prisons, for them to meet international standards, abolish discriminatory practices in their management and set up external monitoring mechanisms.

20. Ban all interrogations by military intelligence officers, investigate each death case that occurs in prisons and detention centers and have results made public.

21. Prohibit any acts of discrimination in prisons and abolishing the culture of the Shawish.  
As to the capacity of its armed forces:

22. Train detectives from the General Criminal Investigation Unit and Special Criminal Investigation Unit in the ISF on forensic science, investigating crime scenes and techniques of interrogation in respect of human rights norms and treaties.

23. Train eligible inspectors on inspection mechanisms in prisons and detention centers on the prohibition of torture and minimum rules relative to the treatment of prisoners according to international standards. As to the treatment and status of foreigners

24. Apply article 3 of the UNCAT, as appropriate, in transferring detainees in the Lebanese State's custody to the custody whether de facto or de jure of any other State and immediately stop extraditing refugees to countries where they are at risk of being tortured.

25. Review, as a matter of urgency, the alternatives available to indefinite detention of foreigners by opening the doors for temporary settlement or any other appropriate mean in respect of human dignity, especially refugees from war torn regions<sup>3</sup>.

26. In the meanwhile, undertake all measures aimed at ensuring Human Rights of migrant workers, refugees, and other foreigners, in particular through accessing the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990) and the Convention relating to the Status of Refugees (1951) and its Optional Protocol (1967).

### **Recommendations made by SOLIDA**

*(SOLIDA, Lebanese Center for Human Rights, "Lebanon. The Ministry of Defense Detention Center: A Major Obstacle to the Prevention of Torture. Forgotten victims, unpunished executioners", Paris, France, 5 October 2006.)*

The full range of measures to be implemented is compiled in the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law" adopted and proclaimed by UN General Assembly resolution 6/0147 of 16 December 2005 (Appendix 8).

#### **We demand that the Lebanese Government take the following measures:**

1. Integrate into the Internal Code of Lebanon the totality of the provisions stipulated by the Convention Against Torture (see Appendix 1).
2. Immediately shut down all "official" detention centres that are still managed by Military Intelligence, and primarily the Ministry of Defense Detention Center.
3. Authorize without delay access by the International Committee of the Red Cross to all detention centres in Lebanon.
4. Take all necessary measures to prevent torture in detention locations, regardless of the victims or the practitioners of the torture.
5. Ensure that inquiries are conducted on allegations of torture.

#### **We demand that the Ministry of Justice, specifically, take the following measures:**

1. Commission inquiries on all allegations of torture.
2. Put in place a mechanism allowing the review of all trials in which torture was practiced, regardless of the Security Service that carried out the torture.
3. To ensure the effective compliance of the Justice Council and the Military Tribunals with the international norms that are in force.
4. Guarantee that victims can be heard in the respect of the totality of their rights.
5. Ensure that sanctions are imposed to the practitioners and/or known accomplices of acts of torture. Public apologies would be particularly welcome.

#### **We demand that the Ministry of Defense, specifically, take the following measures:**

1. Put an immediate end to the practice of torture in all detention centers affiliated with this Ministry and give unrestricted access to them to humanitarian organisations.
2. Take the initiative of closing the detention centers affiliated with the Ministry of Defense
3. Ensure that personnel of the Army's Intelligence Services cease their intimidations and

threats off former detainees, and restitute all documents and personal belongings that were illegally confiscated from them.

4. Further the cause of justice by ordering internal inquiries on presumed practitioners of torture, then take the required measures against them in ail transparency with respect tu the justice system. Here again. public apologies would be particularly seen as evidence of goodwill.

We demand that the Ministry of Social Affairs. in agreement with the Lebanese Government and civil societv at large. adopt measures allowing the reparation of the prejudice suffered by the victims of torture in Lebanon.

Finally. we request a visit to Lebanon by the Special Rapporteur on Torture of the United Nations.