



## **LEBANON**

### **Submission to the United Nations Committee Against Torture Concerning the Death Penalty and Detention Conditions in Lebanon**

**For the 60th Session of the Committee Against Torture  
12 April–12 May 2017**

**Joint Report submitted by**

**The Advocates for Human Rights, a non-governmental organization in special consultative status, in collaboration with the Lebanese Coalition for the Abolition of the Death Penalty, and the World Coalition Against the Death Penalty  
March 2017**

Founded in 1983, The Advocates for Human Rights (The Advocates) is a volunteer-based non-governmental organization committed to the impartial promotion and protection of international human rights standards and the rule of law. The Advocates conducts a range of programs to promote human rights in the United States and around the world, including monitoring and fact finding, direct legal representation, education and training, and publications. In 1991, The Advocates adopted a formal commitment to oppose the death penalty worldwide and organized a Death Penalty Project to provide pro bono assistance on post-conviction appeals, as well as education and advocacy to end capital punishment. The Advocates currently holds a seat on the Steering Committee of the World Coalition Against the Death Penalty.

Founded in 1997, the Lebanese Coalition for the Abolition of the Death Penalty is a group of 64 parties and civil organizations gathered to act against the death penalty and killing in the name of the law. This coalition started the process for the abolition of death penalty in Lebanon, paving the way for more appropriate conditions, which will definitely make Lebanon progressively get rid of capital punishment.

The World Coalition Against the Death Penalty, an alliance of more than 150 NGOs, bar associations, local authorities and unions, was created in Rome on 13 May 2002. The aim of the World Coalition is to strengthen the international dimension of the fight against the death penalty. Its ultimate objective is to obtain the universal abolition of the death penalty. To achieve its goal, the World Coalition advocates for a definitive end to death sentences and executions in those countries where the death penalty is in force. In some countries, it is seeking to obtain a reduction in the use of capital punishment as a first step towards abolition.

## I. EXECUTIVE SUMMARY

1. This report discusses Lebanon's obligations under the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (hereinafter the Convention) with regard to its use of the death penalty. Under the Convention, Lebanon is obligated to "take effective legislative, administrative, judicial or other measures to prevent acts of torture," including to prevent "acts of cruel, inhuman or degrading treatment or punishment."<sup>1</sup> Additionally, Lebanon is under an obligation to ensure that where there are reasonable grounds to believe such acts have been committed, to conduct a prompt and impartial investigation.<sup>2</sup> The government is to ensure the right to make a complaint and have it promptly and impartially examined by competent authorities.<sup>3</sup> Finally, the government is to systematically review "interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction" as a means of preventing acts of cruel, inhuman or degrading treatment or punishment.<sup>4</sup>
2. This Report concludes that certain conditions of death row in Lebanon are degrading and makes recommendations that steps be taken to alleviate such conditions. These steps include both reducing the maximum possible sentence from death to one that is fair, proportionate, and respects international human rights standards, issuing a de jure moratorium, allocating more state resources to the prison system to ensure it meets basic international standards with the goal of ensuring adequate medical treatment to all prisoners and further alleviating overcrowding with respect to death row inmates, eliminating the use of military courts to try accused civilians, and instituting an appeals process for all decisions issued by the Judicial Council.<sup>5</sup>

## II. CURRENT STATUS OF THE DEATH PENALTY IN LEBANON IN LAW AND IN PRACTICE

### A. *Legal Basis for the Death Penalty*

3. Lebanon's de facto moratorium on the death penalty is commendable, but it has not taken any steps toward a de jure moratorium on, or abolition of, the death penalty. Because Lebanon has not moved toward a de jure moratorium or abolition, the death penalty remains a potential punishment for several offenses, including the following: (1) aggravated murder<sup>6</sup>; (2) gang robbery or gang assault if a person is killed in furtherance of criminal activity<sup>7</sup>; (3) arson against certain structures<sup>8</sup>; (4) sabotage of

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<sup>1</sup> Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Art. 2, 16(1).

<sup>2</sup> *Id.*, Art. 12, 16(1).

<sup>3</sup> *Id.*, Art. 13, 16(1).

<sup>4</sup> *Id.*, Art. 11, 16(1).

<sup>5</sup> U.N. Standard Minimum Rules for the Treatment of Prisoners, adopted Aug. 30, 1955, by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, U.N. Doc. A/CONF/611, annex I, E.S.C. res. 663C, 24 U.N. ESCOR Supp. (No. 1) at 11, U.N. Doc. E/3048 (1957), amended E.S.C. res. 2076, 62 U.N. ESCOR Supp. (No. 1) at 35, U.N. Doc. E/5988 (1977).

<sup>6</sup> Lebanon Penal Code art. 549 (1975).

<sup>7</sup> Lebanon Penal Code, art. 336.

<sup>8</sup> Lebanon Penal Code, art. 591 (1975).

communications, transportation or industrial facilities<sup>9</sup>; (5) complete or partial destruction of a building containing at least one person<sup>10</sup>; (6) gang robbery involving torture<sup>11</sup>; (7) importing nuclear, toxic, hazard waste, or polluting waterways<sup>12</sup>; (8) treason against Lebanon<sup>13</sup>; (9) espionage for an enemy<sup>14</sup>; (10) military crimes including desertion, crimes against honor and military duty, military treason and conspiracy, robberies and destruction<sup>15</sup>; (11) aggravated assault<sup>16</sup>; and (12) recidivist crimes if committed by individuals serving life sentences.<sup>17</sup>

#### B. *Death Penalty in Practice*

4. Lebanon has not executed a prisoner sentenced to death since 2004.<sup>18</sup> As of 2014, Lebanon had between 55 and 60 prisoners on death row, imprisoned mainly in Roumieh and Tarablus prisons.<sup>19</sup>
5. While the death penalty has not been carried out since Lebanon executed three individuals in 2004,<sup>20</sup> prosecutors and courts still seek the death penalty and courts still sentence individuals to capital punishment. For example, in July 2014, Military Investigative Judge Imad al-Zein requested the death penalty for a female Syrian detainee accused of terrorism.<sup>21</sup> In January 2015, Judge Peter Germanos issued an indictment recommending the death penalty against six individuals charged with the murder of Yves Nawfal.<sup>22</sup> Again, in May 2016, Military Investigative Judge Najat Abu Shaqra recommended the death penalty for 106 people suspected of involvement in a 2014 battle against the Lebanese Army.<sup>23</sup> Despite the continued use of the death penalty as a

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<sup>9</sup> Lebanon Penal Code, art. 599 (1975).

<sup>10</sup> Lebanon Penal Code, art. 315 (1975)

<sup>11</sup> Lebanon Penal Code, art. 336.

<sup>12</sup> Law of the Maintenance of the Environment from Pollution by Hazardous Waste and Materials, art. 10, 11, No. 64 of 1988, amended by Law No.266 of 1993.

<sup>13</sup> Lebanon Penal Code, art. 273 (1975). The definition of the crime of treason against Lebanon is subject to change depending on the government in power and is often influenced by political, religious or social affiliations. Personal Communication to Nicholas Braye, Project Manager, Ensemble Contre la Peine de Mort (ECPM), Mar. 13, 2015.

<sup>14</sup> Lebanon Penal Code, art. 282, 284, 257 (1975).

<sup>15</sup> The Arab Penal Reform Organization, "A Discussion of a Report on Executions in the Arab World in Sharm Al Sheikh," Hood Online, [http://www.hoodonline.org/news\\_details.php?sid=1136](http://www.hoodonline.org/news_details.php?sid=1136) (2007).

<sup>16</sup> Lebanon Penal Code, art. 336.

<sup>17</sup> Lebanon Penal Code, art. 258 (1975).

<sup>18</sup> Abdelaziz Shafi, Nadir. "The Death Penalty Under Lebanese Law." *The Army Journal*, no. 352 (2014), available at <http://www.lebarmy.gov.lb/ar/news/?41669#.VPXi5Y73-ix> (last visited Feb. 20, 2015).

<sup>19</sup> See, e.g., Abdelaziz Shafi, Nadir. "The Death Penalty Under Lebanese Law." *The Army Journal*, no. 352 (2014), available at <http://www.lebarmy.gov.lb/ar/news/?41669#.VPXi5Y73-ix> (last visited Feb. 20, 2015).

<sup>20</sup> Dalila Mahdawi, "The Year of Missed Opportunities," Daily Star, [http://www.dailystar.com.lb/article.asp?edition\\_ID=1&article\\_ID+110273&categ\\_id=1](http://www.dailystar.com.lb/article.asp?edition_ID=1&article_ID+110273&categ_id=1), Jan. 4, 2010

<sup>21</sup> <http://www.dailystar.com.lb/News/Lebanon-News/2014/Jul-03/262519-death-penalty-sought-for-syrian-in-terror-case.ashx>

<sup>22</sup> <http://www.dailystar.com.lb/News/Lebanon-News/2015/Jan-28/285626-judge-want-death-penalty-for-6-over-yves-nawfal-killing.ashx>

<sup>23</sup> Youssef Diab, "Lebanon Judge Requests Death Penalty for 106 Terror Suspects," Daily Star, <http://www.dailystar.com.lb/News/Lebanon-News/2016/May-18/352724-lebanon-judge-requests-death-penalty-for-106-terror-suspects.ashx>, May 18, 2016.

sentence, Lebanon claims that there is an “implicit agreement” among authorities not to carry out the death penalty.<sup>24</sup>

### III. PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND

#### *A. Lebanon’s Treatment of Death Row Inmates Constitutes Cruel and Inhuman Treatment.*

6. Article 16 of the Convention requires Lebanon to “undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment.”<sup>25</sup> Conditions on Lebanon’s death row, as well as in the larger prison population, violate the prohibition against inhuman and cruel punishment or treatment.
7. Lebanon’s State Party Report notes that Lebanese law recognizes the fundamental and legal rights of prisoners, including the right of prisoners to fulfillment of the legal requirements concerning their place of custody, recreation, medical services, the maintenance personal hygiene, to see relatives and friends, and to lodge complaints concerning the infringement of any right while in prison.<sup>26</sup> The state of Lebanese law with respect to prison conditions and prisoners’ rights, however, lags behind actual conditions on the ground—a point that Lebanon concedes. The State Report concedes that the living environment for detainees and prisoners is unhealthy for several reasons, including: (1) severe overcrowding; (2) high humidity in the majority of prisons and detentions centers; (3) temperatures that are high in summer and low in winter; (4) insufficient sunlight; (5) failure to observe legal requirements concerning the right of prisoners to maintain their personal hygiene.<sup>27</sup>

#### *1. Overcrowding in Lebanese Prisons*

8. The Government of Lebanon admits that severe overcrowding in all prisons prevents it from bringing conditions into line with the Standard Minimum Rules for the Treatment of Prisoners.<sup>28</sup> It states that the problem has grown more acute as a result of the ongoing

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<sup>24</sup> United Nations Convention Against Torture, *Consideration of reports submitted by states parties under article 19 of the Convention*, 14 April 2016, CAT/C/LBN/1, para. 325.

<sup>25</sup> Convention Against Torture, Article 16. *See also id.* at Article 11 (“Each State Party shall keep under systematic review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction, with a view to preventing any cases of torture.”); *id.* at Article 12 (“Each State Party shall ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction.”); *id.* at Article 13 (“Each State Party shall ensure that any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to and to have his case promptly and impartially examined its competent authorities. Steps shall be taken to ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given.”).

<sup>26</sup> United Nations Convention Against Torture, *Consideration of reports submitted by states parties under article 19 of the Convention*, 14 April 2016, CAT/C/LBN/1, para. 317.

<sup>27</sup> *Id.* at para. 432.

<sup>28</sup> *Id.* at para. 318.

Syrian conflict.<sup>29</sup> Death row inmates are housed in several different prisons, with the majority being housed in Roumieh and Tarabulus prisons.<sup>30</sup> In 2010, the Roumieh prison (the largest prison in Lebanon and the primary prison for death row inmates) was filled to more than double its capacity.<sup>31</sup> The Lebanese Government states that a high-security wing has been built to international prison standards at Roumieh prison and can accommodate approximately 300 high-security prisoners.<sup>32</sup> Regardless, the Government of Lebanon still admits that its prisons are equipped to accommodate only roughly 2,500 prisoners, but currently have over three times that number.<sup>33</sup> Blueprints have been drawn up for the construction of four additional prisons, but the Government of Lebanon asserts that it lacks the financial resources to complete construction without outside support.<sup>34</sup>

9. The severe overcrowding causes and exacerbates other degrading conditions, such as unsanitary cells and violence. Overcrowding prompted riots in the Roumieh prison in 2010 and 2011.<sup>35</sup> In January 2013, death row inmate Ghassan Nazir Alqandaqli died of unknown causes, likely the result of violence. The rapid increase of overcrowding is one of the most challenging problems facing the criminal justice system in Lebanon.<sup>36</sup>
10. Lebanon's death rows lack sufficient bedding. Death row inmates also face serious restrictions on daily exercise and time outdoors with access to sunlight and fresh air.<sup>37</sup> Some death row inmates are kept in unsanitary solitary confinement.<sup>38</sup> Many death row inmates are offered inadequate visitation facilities.<sup>39</sup> Prisoners in Roumieh are often clothed only in their underwear, even during their allotted time with their one permitted visitor.<sup>40</sup> Female prisoners are in need of specific care, including services that meet their personal hygiene and medical needs.<sup>41</sup>

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<sup>29</sup> Id.

<sup>30</sup> Dalila Mahdawi, "Death row inmates plead for second chance," *Daily Star*, [http://www.dailystar.com.lb/printable.asp?art\\_ID=110412&cat\\_ID=1](http://www.dailystar.com.lb/printable.asp?art_ID=110412&cat_ID=1) (Jan. 8, 2010).

<sup>31</sup> Dalila Mahdawi, "Death row inmates plead for second chance," *Daily Star*, [http://www.dailystar.com.lb/printable.asp?art\\_ID=110412&cat\\_ID=1](http://www.dailystar.com.lb/printable.asp?art_ID=110412&cat_ID=1) (Jan. 8, 2010).

<sup>32</sup> United Nations Convention Against Torture, *Consideration of reports submitted by states parties under article 19 of the Convention*, 14 April 2016, CAT/C/LBN/1, para. 319.

<sup>33</sup> United Nations Convention Against Torture, *Consideration of reports submitted by states parties under article 19 of the Convention*, 14 April 2016, CAT/C/LBN/1, para. 434.

<sup>34</sup> Id. at para. 319.

<sup>35</sup> Id. at 435.

<sup>36</sup> Centre International d'Etudes Pénales (CIEP): "World prison Brief" - Londres, at [www.kcl.ac.uk/depstal/law/research/icps/worldbrief/](http://www.kcl.ac.uk/depstal/law/research/icps/worldbrief/), Feb. 8, 2010.

<sup>37</sup> "Memo on Health Conditions and Log of Patient Names in Roumieh Prison and Other Prisons," Khiam Center for the Rehabilitation of Victims of Torture (Jan. 10, 2012), available at <http://khiamcenter.org/ar/p.php?lang=ar&aid=292>.

<sup>38</sup> Lebanese Center for Human Rights, Prisons in Lebanon: Humanitarian & Legal Concerns, <http://cldh-arbitrarydetention.blogspot.com/> (Apr. 20, 2010); U.S. Dep't of State, 2009 Human Rights Report: Lebanon, <http://www.state.gov/j/drl/rls/hrrpt/2009/nea/136073.htm> (Mar. 11, 2010).

<sup>39</sup> "Roumieh Prison in Lebanon . . . Suffering for Prisoners and Their Relatives." Aljazeera.net (Jan. 18, 2015), <http://www.aljazeera.net/news/reportsandinterviews/2015/1/18/سجن-رومية-لبنان-معاناة-للمساجين-وذويهم>

<sup>40</sup> "Roumieh Prison in Lebanon . . . Suffering for Prisoners and Their Relatives." Aljazeera.net (Jan. 18, 2015), <http://www.aljazeera.net/news/reportsandinterviews/2015/1/18/سجن-رومية-لبنان-معاناة-للمساجين-وذويهم>

<sup>41</sup> OMS & UNODC: Déclaration de KIEV sur la santé des femmes en prison (2009), at <http://www.who.int/bulletin>.

## 2. *Authorities Allow Commingling of Adults and Minors*

11. The Government of Lebanon contends that the separation of males, women, and children is a “principle” applied in all Lebanese prisons and detention centers.<sup>42</sup> Authorities in Lebanon, however, allow adult and minor populations to be mixed, potentially resulting in violence and abuse to the minor populations.<sup>43</sup>

## 3. *Death Row Prisoners Are Denied Access to Adequate Mental Health and Medical Resources*

12. Lebanon notes certain gains in the areas of medical and mental health care in its prisons, including (1) the establishment of a specialized team to provide psychological care to 370 adolescent Syrian refugees in the Roumieh prison, (2) regular gynecologist visits to women’s prisons, and (3) additional prison doctors engaged by the Directorate-General of Internal Security Forces.<sup>44</sup> Nonetheless, Lebanon concedes that prison living conditions remain poor.<sup>45</sup> Many death row inmates receive inadequate medical and mental health resources. Prisoners with drug addictions generally do not receive proper treatment.<sup>46</sup> Most prisons lack standard medical equipment, and even rudimentary medical supplies such as bandages and rubbing alcohol are absent from many prisons in Lebanon.<sup>47</sup>

## 4. *Death Row Prisoners Die in Prisons*

13. Death of prisoners in Lebanon’s prisons is quite common, including individuals on death row. In Roumieh, about fifty prisoners have died since 2007.<sup>48</sup> In 2011, at least 50 and potentially more than 140 prisoners suffered food poisoning.<sup>49</sup>

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<sup>42</sup> United Nations Convention Against Torture, *Consideration of reports submitted by states parties under article 19 of the Convention*, 14 April 2016, CAT/C/LBN/1, para. 430.

<sup>43</sup> Lebanese Center for Human Rights, *Prisons in Lebanon: Humanitarian & Legal Concerns*, <http://cldh-arbitrarydetention.blogspot.com/> (Apr. 20, 2010); U.S. Dep’t of State, 2009 Human Rights Report: Lebanon, <http://www.state.gov/j/drl/rls/hrrpt/2009/nea/136073.htm> (Mar. 11, 2010).

<sup>44</sup> United Nations Convention Against Torture, *Consideration of reports submitted by states parties under article 19 of the Convention*, 14 April 2016, CAT/C/LBN/1, para. 319.

<sup>45</sup> *Id.* at 432.

<sup>46</sup> Mourtada, Radwan, “Roumieh Prison: Problems and solutions,” *Al-Akhbar* (July 1, 2010), available at <http://www.al-akhbar.com/node/44141>

<sup>47</sup> “Memo on Health Conditions and Log of Patient Names in Roumieh Prison and Other Prisons,” Khiam Center for the Rehabilitation of Victims of Torture (Jan. 10, 2012), available at <http://khamcenter.org/ar/p.php?lang=ar&aid=292>.

<sup>48</sup> “Memo on Health Conditions and Log of Patient Names in Roumieh Prison and Other Prisons,” Khiam Center for the Rehabilitation of Victims of Torture (Jan. 10, 2012), available at <http://khamcenter.org/ar/p.php?lang=ar&aid=292>.

<sup>49</sup> Mourtada, Radwan, “Roumieh Prison: Cases of Poisoning and Gangrene,” *Al-Akhbar*, Apr. 26, 2011, available at <http://www.al-akhbar.com/node/10800>

*B. The Use of Torture and the Lack of Adequate Legal Representation for Defendants Facing the Death Penalty in Lebanon Violates the Convention*

14. Lebanon lacks a state-funded Office of the Public Defender.<sup>50</sup> As a result, defendants facing the death penalty often are unrepresented or lack sufficient legal representation. Volunteer legal aid is scarce, and these unpaid volunteer attorneys often miss hearings and fail to adequately meet with their clients.<sup>51</sup> The lack of legal representation is particularly egregious in cases before the Judicial Council, where defendants are not presumed innocent and are generally poor migrants who can ill afford legal representation.<sup>52</sup>
15. The use of torture to extract confessions remains prevalent. The Government of Lebanon concedes that Lebanese law does not “explicitly provide” that a statement obtained under torture be prohibited as an element of proof.<sup>53</sup> On October 19, 2016, Lebanon passed a new law that established a National Human Rights Institute, which includes a committee to investigate the use of torture and ill treatment of prisoners.<sup>54</sup> The law adopts a broad definition of torture, but fails to criminalize all forms of torture as required under Article 4 of the Convention.<sup>55</sup> The new law is a step in the right direction, but Lebanon has a documented history of widespread use of torture by the Lebanese Internal Security Forces against people in their custody, including against vulnerable groups and children.<sup>56</sup> A 2014 Committee inquiry found that “torture in Lebanon is a pervasive practice that is routinely used by the armed forces and law enforcement agencies for the purpose of investigation, for securing confessions to be used in criminal proceedings and, in some cases for punishing acts that the victim is believed to have committed.”<sup>57</sup> As noted by Human Rights Watch, Lebanon should amend the definition of torture under its law to bring it into compliance with its international obligations and, as their new law requires, actually investigate and prosecute alleged abusers.<sup>58</sup>

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<sup>50</sup> U.S. Dep’t of State, 2009 Human Rights Report: Lebanon, <http://www.state.gov/j/drl/rls/hrrpt/2009/nea/136073.htm> (Mar. 11, 2010).

<sup>51</sup> Dalila Mahdawi, “Prisons crowded to twice their capacity,” *Daily Star*, [http://www.dailystar.com.lb/article.asp?edition\\_ID=1&article\\_ID=112068&categ\\_id=1](http://www.dailystar.com.lb/article.asp?edition_ID=1&article_ID=112068&categ_id=1) (Feb. 24, 2010).

<sup>52</sup> U.S. Dep’t of State, 2009 Human Rights Report: Lebanon, <http://www.state.gov/j/drl/rls/hrrpt/2009/nea/136073.htm> (Mar. 11, 2010).

<sup>53</sup> United Nations Convention Against Torture, *Consideration of reports submitted by states parties under article 19 of the Convention*, 14 April 2016, CAT/C/LBN/1, para. 392.

<sup>54</sup> Human Rights Watch, “Lebanon: New Law a Step to End Torture,” 28 Oct. 2016, *available at*: <https://www.hrw.org/news/2016/10/28/lebanon-new-law-setp-end-torture>

<sup>55</sup> *Id.*

<sup>56</sup> *Id.*

<sup>57</sup> *Id.*

<sup>58</sup> *Id.*

*C. Some Prisoners Sentenced to Death Are Unable to Exercise Their Right to a Mandatory Appeal*

16. Sentences issued by the Judicial Council are not subject to appeal,<sup>59</sup> and violate the right to review of a conviction and sentence by a higher tribunal according to law under the ICCPR and the right to a mandatory appeal for death sentences as set forth by the Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty. Although Law No. 711/2005 allows for retrial and court appeals, the Ministry of Justice does not accept regular or exceptional appeals. Additionally, the law does not establish a requirement for a different committee and judge to review the case in retrial, which risks resulting in the same sentence. The absence of a right to appeal undermines the right to a remedy for torture under the Convention in cases in which the defendant faced torture during interrogation.

*D. Lebanon's Use of Military Courts Violates Fundamental Human Rights*

17. Lebanon's military court system has broad jurisdiction over civilians, including in cases involving harm to the general security, espionage, treason, draft evasion, weapons possession, unlawful contact with the enemy, as well as any conflict between civilians and military or security personnel.<sup>60</sup> Lebanese Military Courts are also permitted to try juveniles.<sup>61</sup> The Military court, which issues the most death sentences, does not permit retrial or appeals.<sup>62</sup> Human rights activists have documented cases of the accused being tortured into confessing and the resulting confessions being used as evidence against them in court.<sup>63</sup> Military court defendants may also lack access to lawyers or their families during interrogations.<sup>64</sup> Lebanese military prosecutors have even brought charges against human rights lawyers and activists who have spoken out against torture on the part of the Lebanese military.<sup>65</sup>
18. Procedures in the Military Tribunal violate fair trial standards. According to Human Rights Watch, many military court judges are military officers who are not required to

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<sup>59</sup> Mona Charmass, "Fighting against the death penalty in the Arab world," World Coalition Against the Death Penalty (Jun. 2008).

<sup>60</sup> Code of Military Justice, 1968, art. 24.

<sup>61</sup> Human Rights Watch, "'It's Not the Right Place for Us' The Trial of Civilians by Military Court in Lebanon," 26 Jan. 2017, available at: <https://www.hrw.org/report/2017/01/26/its-not-right-place-us/trial-civilians-military-courts-lebanon>

<sup>62</sup> Personal Communication to Nicholas Braye, Project Manager, Ensemble Contre la Peine de Mort (ECPM), Mar. 13, 2015.

<sup>63</sup> Human Rights Watch, "Lebanon: Civilians Tried in Military Courts," 26 Jan. 2017, available at: <https://hrw.org/news/2017/01/26/lebanon-civilians-tried-military-courts>.

<sup>64</sup> Id.

<sup>65</sup> Human Rights Watch, "'It's Not the Right Place for Us' The Trial of Civilians by Military Court in Lebanon," 26 Jan. 2017, available at: <https://www.hrw.org/report/2017/01/26/its-not-right-place-us/trial-civilians-military-courts-lebanon>



have legal training.<sup>66</sup> Human rights organizations and journalists are allowed to monitor trials only if they first acquire the presiding judge's approval.<sup>67</sup>

19. The Government of Lebanon claims that the Lebanese Army Command created a committee to investigate allegations of torture received from international organizations in particular.<sup>68</sup> The Government also notes that an international law and human rights bureau established by the Army Command was turned into a directorate to consider any complaints relating to torture or violations of human rights alleged to have taken place inside the military institution.<sup>69</sup> As recently as January 2017, however, Human Rights Watch sent letters to Lebanon's Defense Ministry, Armed Forces, Military Police, Military Intelligence, and Military Court detailing findings of torture and forced confessions and requesting to attend a trial.<sup>70</sup> The Defense Ministry responded, writing that, "The military judiciary in all of its statutes respects all national and international rules of law, especially what concerns respect for human rights."<sup>71</sup> Human Rights Watch, however, did not receive a response to its request to attend the military court trial.<sup>72</sup>

#### IV. RECOMMENDATIONS

20. Lebanon should be praised for its progressive improvement of human rights over the past decade. In particular, its de facto moratorium on death penalty executions since 2004 is commendable, despite its continued practice of seeking and issuing death penalty convictions.

21. The authors of this report respectfully suggest that the Committee recommend that Lebanon take the following measures:

- **Replace the death penalty with a sentence that is fair, proportionate, and respects international human rights standards.** Lebanon should eliminate the death penalty from its penal code and replace it with a sentence that is fair, proportionate and respects international human rights standards. Current death sentences should be commuted.
- **Impose an official, de jure moratorium on the death penalty, effective immediately going forward and for persons currently on death row.** Lebanon should impose an official, de jure, rather than de facto, country-wide moratorium on the death penalty that immediately commutes all death sentences and stays all executions, with a view toward complete abolition of the death penalty.

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<sup>66</sup> Human Rights Watch, "Lebanon: Civilians Tried in Military Courts," 26 Jan. 2017, *available at*: <https://hrw.org/news/2017/01/26/lebanon-civilians-tried-military-courts>.

<sup>67</sup> *Id.*

<sup>68</sup> United Nations Convention Against Torture, *Consideration of reports submitted by states parties under article 19 of the Convention*, 14 April 2016, CAT/C/LBN/1, para. 428.

<sup>69</sup> *Id.*

<sup>70</sup> Human Rights Watch, "Lebanon: Civilians Tried in Military Courts," 26 Jan. 2017, *available at*: <https://hrw.org/news/2017/01/26/lebanon-civilians-tried-military-courts>.

<sup>71</sup> *Id.*

<sup>72</sup> *Id.*

- **The Judicial Council should be stripped of the authority to issue the death penalty.** Until an appeals process is created and implemented for decisions of the Judicial Council, the Judicial Council should be stripped of its authority to issue the death penalty. In the meantime, the Executive Authority should recommend against the death penalty in all cases it refers to the Judicial Council.
- **Create an appeals process and procedure for decisions of the Judicial Council, including death penalty.** Lebanon should revise or abolish Resolution No. 1905 (dated May 12, 1923) by making these decisions subject to appeal and/or by eliminating this extraordinary court system. Create a transparent, just, and fair process and procedure for retrials of cases where the defendant's right to due process and fairness was denied.
- **Provide indigent defendants with well-qualified defense counsel.** Defendants, especially those in capital cases, should receive well-qualified free legal representation when they cannot afford a lawyer, a key protection of the right to a fair trial.
- **Improve conditions in prisons for all inmates, including those on death row.** Ensure that Lebanon meets its obligations not to subject individuals to cruel, inhuman, or degrading treatment by improving conditions for all prison inmates, including: adequate medical care and supplies; clean, well-ventilated cells; separate facilities for adults and juveniles; adequate recreation and time outside; adequate clothing and bedding; and sufficient space for each prisoner.
- **Commit to ensuring appropriate and mandatory training of officials entrusted with upholding the rule of law,** including prison staff, officials involved in detection and prevention of crime, judges, prosecutors, investigators, police, and defense counsel. Ensure that criminal justice actors receive psychological, health, and human rights training that includes the goal of respecting and maintaining prisoners' dignity.
- **Allow human rights activists and journalists access to judicial proceedings, including those before military courts.** Currently, activists and journalists must first secure permission from a presiding military court judge in order to witness military court proceedings. There has been documented human rights abuses in Lebanese military courts, especially concerning the use of torture to extract confessions which are then used in evidence against the accused. Lebanon should create a transparent, just and fair process and procedures for all military court cases and should refrain from using military courts to try civilians.
- **Build new prisons and take additional measures to alleviate overcrowding that are in compliance with international standards.** Lebanon has openly acknowledged overcrowding problems and is in the process of designing additional prisons that meet international standards. These are steps in the right

direction, but Lebanon must increase efforts to secure sufficient funding to actually construct the prisons especially given that the country has approximately three times as many prisoners as it has capacity for, and given that death row inmates are at least partially comingled in this population. Lebanon should similarly continue to evaluate parole and probation as alternatives to imprisonment for more minor offenses, and to make available more space in prisons for those serving longer sentences.