



**JOINT SUBMISSION TO THE NINTH SESSION OF THE UNIVERSAL PERIODIC
REVIEW
[LEBANON] 2010**

TORTURE, ARBITRARY DETENTION AND FAIR TRIAL

Joint Submission to the Ninth Session of the Universal Periodic Review¹
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B- The Legislative and Institutional Situation

1. Lebanon has embodied in the Preamble of its Constitution the Universal Declaration of Human Rights and UN instruments and as such no laws should contradict the constitutional rights. Lebanon has ratified the core covenants that constituted the human rights bill.
2. International human rights instruments are still not regularly and systematically invoked in courts either by the defense counsel and in the judges' legal grounding and analysis of court verdicts.
3. Despite its ratification of the Convention against Torture (CaT) in October 2000 and of the Optional Protocol to the UN-CAT (OPCAT) in December 2008, Lebanon has not amended its laws to criminalize acts of torture, nor designated a National Preventive Mechanism (NPM) before December 2009. This remains the case as per 12 April 2010.
4. The political crisis following the murder of Prime Minister Rafik Hariri in 2005 and Israel's war on Lebanon in 2006, that lasted till 2009, has given subsequent Lebanese governments the excuse not to undertake any legal and political reform. Today, Lebanon is experiencing relative stability. The establishment of the NPM should be possible and would confirm the government's intention to put an end to impunity for the practice of torture by arresting authorities.
5. In January 2008, the Internal Security Forces (ISF) created a Human Rights Department to, among others, train the police regarding Lebanon's international human rights obligations; create a human rights database, coordinate with various stakeholders, including NGOs, and to propose amendments to bring legislation into conformity with human rights obligations.
6. Draft amendments to the laws still on the government's agenda for discussions include an amendment to the nationality law which would eliminate gender discrimination, and an amendment to the 1962 Law on Entry and Exit, which would, among other things exempt refugees and asylum-seekers registered with UNHCR from the crimes of illegal entry and presence. The Parliamentary committee for legal reforms has been reviewing a draft project to amend the Criminal Code of Procedures with the aim of incorporating Lebanon's international human rights obligations in order to maximize guarantees provided to litigants and to ensure smoother court proceedings.
7. In 2009 the Ministry of Justice launched a plan for implementing seven key measures to insure adequate and reasonable court proceedings, which included the separation of the judicial system from politics; court rulings within reasonable delays, setting the terms for preventive arrest, and granting equity for women before the law.
8. The transfer of prison administration from the authority of the Ministry of Interior to Ministry of Justice in implementation of Decree 17513 of 1964 is planned to be completed by 2012.
9. In 2008, upon the request of a number of human rights NGOs, including the authors of this report, the Ministry of Interior declared that it has opened an inquiry into the deaths of more than 37 detainees in Lebanese prisons and detention centers. At the time of writing this report, the findings of the investigation have not been made public.
10. The EU-Lebanon Association Agreement adopted in 2002 in the context of the "European Neighborhood Policy", includes a re-admission clause for the re-admission of

¹ This report is prepared and endorsed by Frontiers Ruwad Association (FR), Alkarama, Restart Center for Rehabilitation of Victims of Torture and Association Libanaise pour l'Education et la Formation

Lebanese nationals from the European Union and leaves the door open to negotiations for the readmission of third country nationals. This has prompted human right organizations to react to the possibility of what could constitute a ‘chain *refoulement*’ from the European Union to Lebanon to the country of persecution of the refugee or asylum seeker. No new re-admission agreements with individual countries have been signed. Previous agreements were signed with Romania, Bulgaria, Switzerland, the UK and Cyprus. In May 2008, Lebanon signed a Protocol for the implementation of its Agreement with Cyprus. Other agreements are under negotiation with Ukraine, Russia, Austria, Germany and Turkey.

11. In December 2009 Lebanon and the UK signed a Memorandum of Understanding (MoU) “on the provision of assurances in respect of persons subject to deportation.” The MoU listed a number of human rights obligations, including the right to a fair trial and to be treated humanely if arrested and detained. The MoU stipulated that the two countries can ‘request assurance’ that these obligations will be respected when deporting to the other State any citizen of the other State, any stateless person who was habitually resident in the other State or any third-country national whom the other State is prepared to admit.

12. During the covered period, Lebanon signed a number of security agreements with various countries, including the UAE, Turkey and Italy, relating to organized crime, drug trafficking, terrorism, and immigration.

C- Promotion of Human Rights on the Ground

The right not to be subject to Torture or Degrading or Inhumane Punishment or Treatment (Article 7 of ICCPR)

13. Conditions of detention in Lebanon are known to be far behind acceptable standards. Abuses, including solitary confinement and deaths in custody, whether as a result of mistreatment or lack of medical care, occur regularly, raising concerns for the entire detainee population. Between 2007 and 2009, there were tens of death of detainees. No serious, public investigations were carried out into these deaths.

14. Torture of detainees is particularly widespread in prisons and in police stations. The judicial authorities do not appear to have acted on many reported cases. In a rare incident, in March 2007, the Beirut criminal court sentenced a police officer to one year of imprisonment, a fine, and payment of compensation, for subjecting a Sudanese worker to a torture method commonly called “roasted chicken” during which the detainee is beaten while strung up like a chicken.

15. On 10 August 2007, the Judicial Police issued an internal instruction stressing the need to respect human rights during police investigations and specifically prohibiting torture.

16. In 2009 and beginning 2010, many refugees in detention went on hunger strike and sometimes resorted to violent acts in order to end their prolonged arbitrary and inhuman detention. A violent riot took place in Roumieh in March 2009 and at the Qubbah prison in Tripoli in January 2009.

17. Prison overcrowding was a predominant concern on the government agenda in recent years. In November 2007 the government issued Decision No. 91² to address this concern by adopting a series of measures, including the enlargement of Roumieh prison, the implementation of the regulations reducing sentences³ and the deportation of foreigners at public expense.

18. Since 2007, ICRC has been, in implementation of the protocol signed in 2007 with the Lebanese authorities, conducting visits to all places of detention including those run by the

² Decision No. 91 of 10/11/2007 published in the Official Gazette No. 73 of 22/11/2007, available at: <http://jo.pcm.gov.lb/j2007/j73-1/wfk/kri1.htm>

³ Decree of 11/5/2006 implementing Law No. 463 of 17/9/2002

Ministry of Defense to assess detention conditions and treatment of detainees. Special attention is given to detainees accused of terrorism and held in the security wing of Roumieh prison.

19. Lebanon's detention of children remains a major human rights problem. Due to overcrowding, minors are often not separated from adults in detention, and 50 % of incarcerated minors have been sexually harassed.⁴

20. The absence of clear legal provisions criminalizing the acts of torture and ill-treatment by the authorities in domestic laws, resulting in the spread of impunity, are the main factors facilitating torture and ill-treatment, mainly during police interrogation. Article 401 of the criminal law is vague and does not use the word "torture" and fails to include mental or psychological torture.

21. Interviews with detainees and former detainees confirm psychological and physical torture during police investigations. Many stated they were ill-treated in prisons. Methods of torture include sleep deprivation, beating with cables, insults, humiliation, and intimidation

22. The police and the military intelligence are not properly trained in forensic investigation and interrogation techniques or regarding human rights standards. This contributes further to the normalization of torture for the purpose of extracting confessions. Many security agents view torture as a necessary interrogation tool whose use can be justified by reasons of national security and crime prevention.

23. Ill-treatment and torture occurred during the conflict in Nahr al-Bared refugee camp in northern Lebanon that took place between May and September 2007. Torture appears to have been routinely used by the military intelligence against Fatah al-Islam detainees and members of the general Palestinian refugee population to extract confessions.⁵

24. Yarze prison, under the authority of the Ministry of Defense, holds a record of torture targeting previous anti-Syrian activists during the Syrian presence in Lebanon pre-2005. Torture continued to be a common practice in Yarze prison after the Syrian retreat. There were alleged and proven torture cases including extreme conditions and close confinement for prolonged periods. Among them was that of detainees suspected of involvement with Fateh el Islam in 2007, as well as individuals accused of terrorism and crimes threatening the national security.

25. The Criminal Investigation Bureau and the Anti-Drug Bureau of the Internal Security Forces (ISF) are suspected of committing routine and systematic torture. Accounts of brutal torture were given in testimonies obtained in 2007 from detainees held by the Anti-Drug Bureau at Hobeich (west Beirut) and Zahle police stations, notorious for torturing and ill-treating drug addicts and traffickers.

26. Detainees at police stations do not have automatic access to doctors or lawyers, especially detainees belonging to vulnerable groups such as illegal migrants, drug addicts, sex workers, and homosexuals. In some prisons individuals are often held incommunicado for days.

27. Lebanese places of detention do not meet the Standard Minimum Rules for the Treatment of Prisoners, especially in relation to food, exercise, medical services, separation of categories, discipline and punishment, clothing and bedding as well as personal hygiene. This is confirmed by prisoners' complaints and social workers observations. In some prisons, such as in Tripoli, prisoners are locked all day in small windowless cells that are poorly ventilated and overcrowded. In addition, the facilities provided for hygiene and sanitation are humiliating and degrading to the prisoners where there is a lack of proper toilet facilities, as well as inadequate sleeping arrangements, with prisoners sleeping on damp mats on the

⁴ IRIN, *LEBANON: Overcrowded and mismanaged prisons criminalising young offenders*, 25 March 2007;

⁵ See "Lebanon: the Painful Whereabouts of Detention", February 2008, <http://unispal.un.org/UNISPAL.NSF/0/E251909C92085A00852574BF00608A05>

concrete floor of the cell. These conditions contribute to critical physical and medical problems, exacerbated by the absence of relevant services and trained medical staff in prisons. Moreover, the government does not provide non-convicted prisoners with necessary medical treatment and follow-up care during incarceration and after their release, nor does it provide all inmates with basic needs such as clothing and bedding.

The Right to Personal Freedom (A.9 of the International Covenant on Civil and Political Rights)

1- The Right to Security from Arbitrary Detention (A.9.1 of the Covenant)

Detention on unlawful grounds or without consideration to established legal procedures

28. The Lebanese authorities systematically impinge on personal freedom, particularly that of migrants, detaining them after the expiry of their judicially imposed sentences, after declaring them innocent and ordering a halt to all legal pursuits, and without referring them before a judge. This practice is a violation of the Lebanese Constitution (Article 8) and Lebanon's international obligations, especially Article 9 of the International Covenant on Civil and Political Rights, and positive Lebanese laws, in particular Articles 47, 197 and 403 of the Code of Criminal Procedures.

29. Between 2007 and 2010 more than 1,200 foreigners, mostly refugees and asylum seekers were detained on grounds of illegal entry and/or stay. The majority of these were Iraqi and Sudanese nationals. They were kept in prolonged arbitrary detention. Many had served their full sentences but remained in prison or in the custody of Lebanon's General Security. Others were never referred to a court or even charged, while some were declared innocent or a court decision was issued to halt legal cases against them. More than a third remain in detention at the time of writing this report, a third had been released and a third deported back to their countries of origin.

30. The arbitrary detention period ranged from 3 to 9 months. Some migrants remained in custody for up to 12 months, while a few were arbitrarily detained in excess of 30 months.

31. Foreigners were not promptly released upon the expiry of their prison terms as Lebanese law stipulates (Article 406 of the Code of Criminal Procedures and Article 58 of the law regulating prisons). This practice is based on Directives issued by the General Prosecutor that violate the laws and the Constitution. For example Directive no. 4662/ط/2004 of 16/12/2004 instructs the prison administration not to release foreigners upon expiry of sentence but to transfer them to the custody to the General Security regardless of the migrant's legal or deportation status. Circular no. 251 dated 14/8/1969 permits the detention of migrants awaiting the finalization of deportation formalities even if the detention exceeds the maximum time limit allowed by the Code of Criminal Procedures.

32. Beginning 2010 a number of court rulings were rendered affirming that there were no legal grounds for prolonging the detention of migrants after the expiry of their sentences, regardless of the authority holding them in custody, and that such detention was unlawful and blatantly arbitrary.

2- The Right to be Brought Promptly before a Judge (Article 9.1 of the Covenant)

Arbitrary Detention before Appearing in Court

33. Sometimes, legal actions are taken against migrants – also known as peremptory arrest – long after the elapse of the legally prescribed delay for police detention and referral before the prosecutor.

Arbitrary Detention without a Timely Trial

34. Migrants are sometimes detained for up to 13 months by the General Security, far in excess of the legal maximum term for police detention without appearance before a judge. It is said that they are held pending the finalization of deportation formalities, though not all such detention cases were sentenced to expulsion or proved to be a threat to national security or public safety, or even authorized by the Prosecutor-General as stipulated by Articles 17 and 18 of the 1962 law regulating the entry, stay and exit of foreigners, the only instance that justifies holding persons in the custody of the General Security without a court sentence. The fact that many detainees are later released on different grounds proves that they do not fall under the terms of Articles 17 and 18 of Law 1962

35. In some cases, migrants were arrested on the grounds of illegal entry by the police, who then referred them – usually upon the instructions of the Prosecutor-General – to the General Security. After a period in police custody, they were released on condition of regularizing their status only to later discover that they had been charged with illegal entry in absentia apparently as a result of the Prosecution Department, reversing its initial ruling.

36. There is no publicly available information on the legal instrument creating the General Security Detention Center, where migrants are detained after the expiry of their prison terms or without appearing before the courts. This was confirmed by a letter from the General Director of the General Security dated 29/3/2010 in response to FR question.

37. A disturbing practice has recently been brought to the attention of FR, concerning the use of domestic violence shelters and the Safe House – designed for victims of human trafficking – as unofficial jails, constituting a breach of the Memorandum of Understanding (MoU) regulating such locations. Foreign female detainees are transferred from the Detention Center to shelters or safe house, where they are kept in custody for long periods without appearing before a judge. They are prevented from leaving the location or having any contact with the outside world, including their attorney⁶.

Lack of a Refugee Legal Framework leading to Arbitrary Detention

38. With the exception for 1948 Palestine refugees, Lebanon lacks a refugee legal framework. Furthermore, Lebanon refuses to acknowledge asylum as a reason for entering Lebanon. Nor do the Lebanese authorities recognize the asylum seeker of refugee certificate issued by the UN High Commissioner for Refugees (UNHCR). The absence and/or non-recognition of UNHCR's protective role lead to the arrest of refugees and asylum seekers for illegal entry and/or stay and then to their arbitrary detention, like other migrants.

39. The UNHCR is denied automatic access to persons under its mandate held in the custody of the General Security, a practice that undermines the agency's protective role.

The Selective and Discretionary Release from Arbitrary Detention

40. There is no clear policy for ending the arbitrary detention term and no way to predict how or when detainees are released. It seems that the practice remains subject to the discretionary and selective whims of administrators. Between 2007 and 2010, almost half of all arbitrarily detained migrants identified by FR were released after being arrested for illegal entry and/or stay. They were released to regularize their legal status – i.e. pay fines for the years of illegal presence in the country and obtain yearly residency permits – or following an intervention from the UNHCR and a promise to resettle them.

The Principle of Non-Refoulement

⁶ The Safe House is regulated by a Memorandum of Understanding between the General Directorate of the General Security, Caritas Migrants Center and the International Catholic Migration Committee, issued by Decree 14289 of 2/12/2004, Official Gazette Issue 11 dated 17/3/2005

41. Some Lebanese courts sentence to deportation recognized refugees and asylum seekers in spite of Lebanon's ratification in 2000 of the Convention against Torture which prohibits returning any person to a country where he may be tortured.

42. Lebanon has in recent years turned to arbitrary detention to compel refugees without any hope of release, despite UNHCR intervention in some instances, to "voluntarily" agree to return rather than spend an indefinite term behind bars in harsh conditions.

43. Some "voluntary returns" were identified in the case of Iraqi refugees or asylum-seekers between 2007 and 2010. These were carried out at first in coordination between the International Organization for Migration (IOM) and the Iraqi embassy. The IOM later suspended its involvement.

44. During the first months of 2010, a number of Iraqi recognized refugees were deported despite the fact they were not all sentenced to expulsion. They had signed the "voluntary return" form fearing the prospect of indefinite arbitrary detention, but had retracted their signatures and had resisted their deportation. Around 14 Iraqi refugees were brought back before the general prosecutor, who accused them of refusing to leave the country as per Article 89 of the Penal Code. On March 30, 2010 the court ruled that the provisions of Article 89 did not apply to refugees who remain in custody after the expiry of their prison terms and who refuse to be deported⁷.

3- The Right of the Defendant to Be Informed of the Charges against Him (Article 9.2 of the Covenant)

45. Refugees are often not informed of the reasons for their arrest until after reaching the police station. Some state that they were never expressly informed of the charges leveled against them as stipulated by Article 47 of the Code of Criminal Procedures.

46. The police do not read to the detainees their rights, including the right to contact an attorney, according to the abovementioned Article 47, which may lead to the nullification of the investigation.

47. Refugees sign the police interrogation report without reading it or having it read to them, despite their insistence. Some were pressured and physically threatened into signing the record regardless of their objection to its content.

48. Many arrests are enforced without a court order, often by plain clothed officers who do not display their military cards. In other instances, arrests are made by army officers or the Intelligence Department of the Internal Security Forces, a branch whose legality and role remain controversial.

4- The Right to Resort to Courts to Decide on the Legality of Detention (Article 9.4 of the Covenant)

49. The Lebanese Code of Criminal Procedures features no special provisions on the right of the detainee to resort to courts on the legality of his arrest.

50. Routine judicial visits to detention centers seem not to be taking place in compliance with the law, contributing to the spread of arbitrary detention. The Lebanese Code of Criminal Procedure and the decree regulating the prisons compel active judges and Prosecutors to check on persons in detention centers and prisons under their jurisdiction at least once a month, and to release any unlawfully detained persons after proving the illegality of their detention under penalty of disciplinary action (Articles 402 and 403 of the Code of Criminal Procedures, and Article 15 of the decree on the regulation of prisons).

51. It is not known how many civil servants were charged with the act of committing an arbitrary denial of liberty by arrest, whether through legal action instituted by the Prosecutor-

⁷ First Instance Criminal Judge in Beirut, 29/3/2010, judgment in case 422/2010

General or through legal proceedings undertaken against the functionary by a detainee. Detainees can institute legal action challenging the legality of their detention, holding accountable anyone detaining them without any legal grounds. As a matter of fact, these remedies are enshrined in the Penal Code and the Code of Penal Procedures (Articles 367, 368 and 371 of the Penal Code, Article 406 of the Code of Criminal Procedures).

52. Between 2007 and beginning 2010, FR submitted 13 cases of arbitrary detention to the Prosecutor General and the High Judicial Council. No action was taken by the Prosecutor General other than soliciting a response from the General Security. As such the Prosecutor General is not performing his/her role in safeguarding public freedom and private liberty. This is contrary to the Prosecutor General rulings in the late 1990's that migrants should not be kept in custody indefinitely when their deportation is not possible and should be released.⁸

53. The government does not always enforce court rulings protecting personal freedoms. The General Security has refrained from releasing migrants upon the expiry of their prison terms, or upon proclaiming them innocent by a court verdict or ordering a halt of legal cases against them, or following court rulings that ordered their prompt release following challenges to their arbitrary detention. Between 2008 and 2010 a number of injunctions were made before the court requesting the end of the arbitrary detention of refugees in accordance with Article 579 of the Code of Civil Procedures. Judges have ruled that prolonged detention is a violation of personal freedom, has no legal grounds and is thus arbitrary. Only one such verdict was executed following a wide advocacy campaign led by civil society, including the media, NGOs and activists, while one refugee was deported before the date of his trial.

Verifying the Legality of Detention and Deportation by an Administrative Decision

54. Migrants detained by the General Security do not enjoy the right to a defense counsel. Lawyers face serious obstacles in accessing their clients held at the General Security Detention Center. In principle, their access to their clients is regulated by the MoU signed between the Beirut Bar Association and the General Directorate of the General Security in 2006.⁹ Nevertheless, this MoU falls short of the right to access a legal counsel standards. A group of detained refugees went on hunger strike in beginning 2010 to protest GSO refusal to allow them to appoint a defense counsel to challenge the legality of their detention by the General Security.

55. Between 2007 and 2010, FR submitted 72 cases to the Ministry of Interior calling for its intervention to release refugees and asylum seekers detained arbitrarily. The Ministry simply referred the cases to the General Security, which in response merely laid out the facts of the case without offering any legal grounds for detention.

56. Written notices of the detention decision are not provided to migrants in custody. This limits the detainee's capacity to challenge his detention before the State Council (*Conseil d'Etat*) – the supreme administrative court in the country. The lengthy proceedings before the administrative court also practically undermine the capacity to challenge such decisions. FR has never encountered a case where a refugee was able to challenge the decision of the General Security to prolong his detention indefinitely before the administrative court.

57. Given the difficulty of locally challenging arbitrary detention, FR turned to the UN Working Group on Arbitrary Detention to urge an intervention with Lebanese authorities in more than 25 cases during 2009-2010.

5- The Right to Compensation for Unlawful Detention (Article 9.5 of the Covenant)

⁸ Public Prosecutor in Beirut, Decisions 14604 and 14605 dated 9/12/1993

⁹ Memorandum of Understanding between the General Directorate of the General Security and Beirut Bar Association, No. 43/1ع/ص/م dated 19/7/2006 regulating lawyers access to GSO premises

58. Lebanese law features no special provisions on the right of the arbitrarily detained to demand compensation for prolonged detention. Recent court rulings looking at arbitrary detention have not addressed the issue of compensation. FR has yet to be informed of a case where a complaint was lodged before the administrative court and compensation was demanded for the arbitrary denial of freedom. Filing a case against the civil servant before the administrative court demanding compensation as a remedy to arbitrary detention is tedious, as it lasts many years, and is limited, as it requires that plaintiffs prove the functional negligence of the civil servant who enforced the arbitrary detention (Article 61 of the law governing the State Council).

59. In early 2010 FR assisted a female migrant to file a complaint against General Security claiming compensation for detaining her arbitrarily for more than 11 months.

The Right to a Fair Trial (Article 14 of the International Covenant on Civil and Political Rights)

1- The Right to Appear before a Competent, Independent and Impartial Tribunal (Article 14.1 of the Covenant)

60. Despite clear constitutional provisions on the independence of the judicial system (Article 20), Lebanon's judiciary is not truly independent. This restricted independence is due to the fact that the appointment or transfer of judges in ordinary courts occurs by virtue of a resolution issued by the Executive Authority following an agreement with the High Judicial Council (HJC) and the Justice Minister. In the event of a disagreement between the Council and the Minister, the Cabinet makes the final decision.

61. The limited independence of the judiciary also stems from the division of the system into separate bodies, each governed by its own regulations. Among these divisions are justice courts (headed by the HJC), administrative courts and the military court, in addition to the independent religious courts that fall under the jurisdiction of the relevant religious denomination.

62. The military court has raised the most concern.¹⁰ It is composed of a number of army officers appointed by the military and one civilian. The procedures of court hearings do not provide adequate guarantees in terms of the right to defense and the right to a fair and public hearing. As a result, the principle of the equality of all citizens before the law is violated.

63. More alarming still is that the military court, already enjoying extraordinary powers, has been granted wider prerogatives: it settles criminal matters involving a member of the army as well as felonies relevant to national security. This tribunal falls under the direct jurisdiction of the Defense Ministry. Civil society organizations, and even the Minister of Justice, are currently increasing pressure to prevent this court from handling the cases of civilians¹¹.

64. Twelve persons arrested during the Nahr al-Bared camp insurgency, and about whom Al-Karama has filed a complaint to the Special Rapporteur on Torture, were taken to be tried by a military court despite being civilians and regardless of the fact that the acts they were charged with are not of a military nature. They were held in detention by the Intelligence Unit of the ISF for five months before being referred to the central Roumieh prison, and were not allowed to contact their families or attorneys for two months¹². These persons

¹⁰ Regulated by law no. 24 of 1968

¹¹ http://en.euromedrights.org/index.php/publications/emhrn_publications/68/4143.html

¹² http://en.alkarama.org/index.php?option=com_content&view=article&id=153:lebanon-torture-ill-treatment-and-prosecution-of-civilians-before-military-courts-&catid=26:communiqu&Itemid=132

claimed that they were forced into signing their depositions under torture. The military court has not opened an investigation into their claims.

65. In addition to the military court, Lebanon has another extraordinary judiciary - the Justice Council, created in May 1923. This council exercises wide-scale prerogatives, as it looks into many cases of threats against internal and external national security such as treason, espionage, and crimes against the image of the State. It is a political tribunal par excellence, as the cases it handles are referred by a Cabinet decree, in violation of the separation of powers and the independence of the judiciary. The procedures of this court fall short of the standards of fair trial, for there is no right to appeal its rulings.

2- The Right to Minimal Procedural Guarantees (Article 14.3 of the Covenant)

The Right to be Tried without Undue Delay

66. Legal texts on arrest before trial are in conflict with international human rights standards in some cases, where Article 108 indicates an indefinite detention period for repeat offenders. Also, the provisional arrest of the perpetrators of certain crimes, such as murder, drug charges and offenses against national security, is indefinite according to the same article.

The Right to Defense

67. Migrants, particularly in cases of illegal entry, are tried in hasty procedures without proper and adequate hearing sessions. They are not given the opportunity to present their case. The court hearing is limited to the judge asking the migrant if he/she has entered the country illegally and is satisfied with a nod for an answer.

68. The State does not have a legal aid program. Legal aid is provided by the Beirut Bar Association (BBA) and is limited to felony cases. With regard to migrants, legal aid is provided only if the migrant is habitually resident in the country and on condition of reciprocity. Migrants are therefore only represented by a defense counsel if they can afford the service, or if an NGO or the UN High Commissioner for Refugees appoints one for them.

69. The fairness of these proceedings is further undermined by restrictions on the lawyer-client relationship. GSO continues its policy, established in July 2006, of restricting lawyers' access to GSO premises and, in particular, to the detention center administered by GSO. The policy – adopted in agreement with the Bar Association due to the lack of clear legislation allowing and regulating the entry of lawyers to GSO premises - requires lawyers to check in upon arrival to GSO premises, sets up a system to register their visits, limits their right to inquire with the Intelligence Office and the Investigation Department, and requires prior GSO approval.

The Right to Interpretation Services

70. Sworn interpreters are not available for migrants during their trial, which hinders their defense.

The Right to Convict Segregation

71. Convicts are rarely segregated in Lebanon according to the crimes they were convicted of. Arrested individuals pending trial are held with convicts due to overcrowded jails and lack of available space in detention centers. Migrants charged with illegal entry to the country are held in custody with persons convicted of murder and other crimes.

3- The Right to Be Tried Only Once for the Same Offense (Article 14.7 of the Covenant)

72. FR has come across several cases where multiple arrests and trials were carried out for the same offense, notably for illegal entry to Lebanon, in blatant violation of Article 182

of the Penal Code which states that a person shall not be tried more than once for the same offense. It should be noted also that these persons did not exit the country and re-enter it to commit the act of illegal entry again. Thus, it remains unclear whether the prosecution considers illegal entry as an ongoing crime, although it is limited in time and does not subsequently meet the conditions of ongoing crimes.

D- RECOMMENDATIONS

73. The law regulating the entry, residence and exit of foreigners of 1962 should be amended to exonerate asylum-seekers and refugees from the crimes of illegal entry and presence. A legal mechanism should be established to ensure the protection of refugees and asylum seekers, particularly against arbitrary detention and *refoulement*.

74. A public investigation into the practices of prolonged arbitrary detention and *refoulement* should be carried out. Those responsible for these practices should be brought to justice, in order to put an end to the pattern of impunity for human rights violations and provide remedies to victims.

75. The principles in the code of conduct for law enforcement officials (UNGA Resolution 34/169 of 17 December 1979) should be adopted and reflected in national law. Torture should be defined by including all its elements (mental, physical etc.), and considered a criminal offense.

76. Efforts to establish the National Prevention Mechanism should be expedited, in line with the OPCAT, in order to ensure an appropriate monitoring system for places of detention.

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