



LEBANON parallel report

**Report submitted to the Committee Against Torture in the
context of the initial review of Lebanon**

**Restart Center for rehabilitation of victims of violence and torture
with the technical support of the International Rehabilitation
Council for Torture Victims (IRCT)**

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1- Introduction

General political context

During the past years, Lebanon has gone through arduous political instability and insecurity. This climate has generated weaknesses in public institutions and a culture that allows violations, abuse and loss of social control.

Lebanon had been without a Head of State for 29 months after Michel Suleiman stepped down as president at the end of his term in May 2014. Since then, 45 sessions to elect a new leader had failed due to political infighting that led to a lack of quorum. On October 31st, 2016, more than 100 of the 128-member legislature arrived at the parliament building guaranteeing the needed quorum for the session to start and the president was elected. The absence of a president of state has led to a paralysis in all the systems, mainly the legislative one. Hence, the status of the criminalization of torture draft law has remained static. The internal insecurity situation remains complicated due to the geographical location of Lebanon in a boiling region; More than 1.5 million Syrian refugees entered the country, in a regular and irregular way, during the war, and this affected the private and public institutions including places of detention. Moreover, approximately 45,000 Palestinians from Syria are living in Lebanon, joining the estimated 400,000 Palestinian refugees already in the country. In 2015, Palestinians from Syria were still banned from entering the country. As of July, the UN Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) suspended its cash assistance for housing to Palestinians from Syria due to a shortage of funds.

Crime also remains a serious concern in Lebanon. The overall crime situation has remained consistent from 2013-2016, which may be due in part to the worsening economic situation due to the continuing violence in Syria and related developments. Many transnational terrorist groups train, operate, or are based in Lebanon, and the Lebanese Armed Forces and Internal Security Forces are routinely executing counter-terrorism operations, including several recent high profile operations against Al-Nusra and ISIL.

On the 18th of December, Mr Ayman Choucair, was designated a minister of state for human rights forming, for the first time in Lebanon, a human rights ministerial portfolio. Although he has included in his strategy the subject of civilians being tried in military courts, the respect of human rights and combatting extremism, as well as the improvement of the prisons' condition across the country, he has not yet elaborated a clear priority or strategy on eradicating torture in Lebanon by underlining the right to rehabilitation for victims of torture and promoting prevention activities.

In conclusion, the general institutional instability and paralysis, coupled with the broader security situation in Lebanon and the broader region, has led to prioritizing security and emergency plans instead of developing laws and legislations promoting human rights. At the moment, Restart is engaged in a constructive cooperation with governmental and official bodies that aims to improve the current situation.

This report will address issues related to the criminalization of torture, documentation, law enforcement agencies capacity building, conditions of Lebanese places of detention and the absence of redress for victims of torture.

2- Criminalization of torture

Despite the ratification of the Convention against Torture and other Cruel, Inhuman and Degrading Treatment (UNCAT) in October 2000, Lebanon has not yet amended its laws to criminalize acts of torture. In 2012, the Lebanese Parliament worked on a draft law on criminalization of torture, which was finalized in June 2014. The Administration and Justice Committee of the Lebanese Parliament has reviewed the draft law aiming at reforming several legislations. However, this draft does not comply with article 14 of the Convention against Torture since it does not establish a right to Rehabilitation and compensation. Moreover, the draft law doesn't establish any obligation to protect victims and witnesses as required by article 13.

Recommendation:

Parliament should adopt the law at the earliest possible time while integrating the recommendations from civil society organizations on ensuring compliance with Articles 13 and 14 of the Convention against Torture.

3- Screening and documentation

The legal duration for detention under Article 32 of the Code of Criminal Procedure was originally set at 24 hours, renewable once by the prosecution. This period was increased by Law No. 359 of 16 August 2001 to 48 hours, renewable once. Legal guarantees are provided for under this procedure, such as a hearing for the accused in the presence of his counsel, and a medical examination by a doctor at the request of the accused or their relatives. However, this provision is not respected in practice by the security services.

Suspects are routinely held in detention for more than 48 hours before appearing in front of a judge, and time limitations in preventive detention are often not respected. This is particularly worrying since most allegations of torture in Lebanon relate to situation of interrogation during the first period of arrest. A survey conducted by Restart center inside Tripoli prison for men, showed that 76% of the detainees alleged being subjected to physical and psychological torture during the first period of arrest.

To make sure that no torture is practiced during the first period of arrest, a Forensic & Psychological Examination Unit has been formed with the collaboration of the Ministry of Justice based on a memorandum of understanding in Tripoli, north Lebanon in order to give effect to the right to a medical screening to each person who is subjected to an investigation process. This will take place inside the Judicial Palace, where most of violations take place. In so doing, it will seek to avoid the manipulation of proofs –namely medical evidence- which so far has been made possible thanks to the application of a military protocol, according to which officials are in charge for managing “sensitive findings”. The recruitment of external experts, including 2 forensic doctors, 2 psychological experts and other health professionals (1 social worker and 1 lab technician) was done according to their level of expertise, availability of time and commitments.

Recommendation:

- The state should evaluate the effectiveness of the F&P Examination Unit created in Tripoli (north Lebanon) in order to establish a nation-wide system in all the Judicial Police Offices located in the other departments of the Lebanese national territory, in order to make sure that Torture is not practiced during the investigation period.
- The arrest period should not be extended to more than 48 hours in order to limit the time that persons in custody are exposed to high risk of ill-treatment and torture.

4- Training of Law enforcement

In view of the absence of a specific article in the Lebanese law that stipulates a mandatory training for law enforcement personnel and a clear strategic plan aiming at building the capacities of law enforcement personnel in relation with human rights issues, particularly about Torture and ill-treatment, the NGOs and CSOs are playing the role of trainer for the law enforcement personnel in order to raise awareness and promote the human rights culture according to national and international mechanisms, including the UNCAT, OPCAT, Istanbul Protocol, Mandela Rules etc.

And due to the importance of improving the law enforcement personnel ‘s skills to prevent torture and ill treatment practices especially those currently working inside places of detention and the new recruited ISF members, a curriculum was designed in accordance with the general

directorate of the internal security forces to be given in the ISF institute and integrated in the curriculum of the ISF as part of the awareness training that are taking place.

Law enforcement personnel working in places of detention don't operate under a human rights framework. Hence, they lack awareness in terms of dealing with persons deprived of their liberty and managing prisons; they lack knowledge about human rights issues and specifically the rights of prisoners. Due to this fact, a curriculum has been developed with the aim of covering the issue of domestic laws relating to prisoners and prison management according to international conventions to which the Lebanese state is committed to respect, the development of strategies to better dealing with cases of extremism and violence, a clear concept about the social, mental health and economic level of the detainees, and to identify the types of drug addiction and other mental and psychological effects and how to treat addicts through psychological and medical treatment. Moreover, it tackles the issue of development of methods and plans to maintain the security and safety in prisons and the prevention of torture in all its forms.

Recommendations:

- The State should conduct training sessions targeting law enforcement personnel on UNCAT and OPCAT as well as the Standard Minimum Rules for Treatment of Prisoners (Mandela rules).
- The state should provide ISF staff members working in prison with psychological support and care-for-care-givers services.
- The State should form a specialized unit dedicated to work only inside Lebanese places of detention in order to avoid the risks of low professionalism.
- The State should conduct training sessions targeting all the judicial police members who are entitled to carry out investigations in order to build their investigations on evidence based approach and scientific techniques rather than using torture and ill-treatment in order to have confessions.

5- Places of detention

This section will focus on the conditions of detention in Lebanon and elaborate on some of the key challenges detainees face. The findings are informed by Restart's experience as a rehabilitation service provider inside prisons and a survey conducted in the Tripoli Prison for men in 2017. While many of the specific observations are based on the situation in the Tripoli Prison, in Restart's experience, it is representative for the rest of the country.

Since 2011, Lebanon is facing major challenges related to the Syrian crisis especially with the security. The presence of 1.5 million Syrian refugees on the Lebanese territories affected the private and public institutions including places of detention. This existence has a major effect on radicalization because hotbeds of poverty are hosting environment of radical groups and closely connected to such groups intellectually and religiously. On a daily basis, the Lebanese security

forces arrest refugees on allegations of criminal behavior including the planning of terrorist acts and affiliation to radical groups. These arrests mean that the percentage of Syrian prisoners has reached 30% of the total prison population.

This has further exacerbated the already poor conditions of detention in Lebanon where inmates are now not only exposed to poor material conditions but also control and risk of radicalization from stronger prisoners with connections to armed groups.

The conditions of the majority of the Lebanese detention places are considered poor and do not meet the international standards. The services provided inside these places of detention do not respond to the basic needs of the persons deprived of their liberty. In order to fill the gaps related to the services and with the collaboration of the Internal Security Forces and the official authority that conducts the prison's management, NGOs were able to provide services inside places of detention through implementing rehabilitation projects that includes health, mental health, legal and social assistance in addition, to improving the prison environment through the developing the infrastructure.

A- Prison condition:

a- Overcrowding and accommodation:

Overcrowding is a major and serious problem in Tripoli prison for men. The prison is designed to accommodate maximum 350 prisoners but in 2014, not less than 950 prisoners were incarcerated. Overcrowding is mainly caused by the large number of pre-trial detention cases. Restart's survey indicated that that 86.1% of the inmates inside Tripoli prison for men are in pre-trial detention.

The majority of the inmates are kept locked in their cells almost all day long; hence, they spend their day sitting without having access to fresh air or any physical activity.

The high number of inmates in one cell, around 60, prevents inmates from sleeping adequately since there's no sufficient distance between the mattresses; this also increase the risk of transmission of infectious skin diseases from one prisoner to the other.

The number of inmates per cell leads to the curtailment of rehabilitation services and limits the chance of self-improvement of prisoners. Lack of resources and the big number of detainees decrease the accessibility of inmates to the needed services; such as medical follow-up, self-hygiene practices as well as recreational activities. In addition, overcrowding creates stress, which in conjunction with the precarious and humiliating living conditions experienced in the prison, can amplify the adverse effects of overcrowding and lead to conflicts and other dangerous behavior. The process of adjustment experienced by the inmates to cope with the excess of stress varies from social withdrawal, inability to maintain personal identity, aggression or even depression. Whatever way inmates choose to deal with stress related to overcrowding, generally they tend to choose methods which do not enhance their physical and mental health.

b- Material conditions:

b.i: Food

The rule 22 (§ 1) of Mandela rules stipulates that *“Every prisoner shall be provided by the prison administration at the usual hours with food of nutritional value adequate for health and strength, of wholesome quality and well prepared and served”*.

In Tripoli prison for men, food is served once per day. Inmates complain mainly about the quality of the food and not the quantity. According to an ex-detainee in Tripoli prison for men, every prisoner has his own bowl to fill food during the distribution. However, each prisoner has to be present in the cell during food distribution in order to get their portion.

The majority of persons deprived of their liberty rely on food brought to them by their families and friends. This food is searched and examined in order to verify that no illegal substances are tried to be transferred into the prison.

b.ii: Sanitary facilities and Personal hygiene

The rule 18 (§ 1) of Mandela Rules specifies that *“Prisoners shall be required to keep their persons clean, and to this end they shall be provided with water and with such toilet articles as are necessary for health and cleanliness”*.

But, according to the observation of the NGOs and the prisoners’ testimonies, there is a serious lack of hygienic supplies in all Lebanese places of detention. The number of prisoners is not proportional to the equipment existing in the cell such as toilet, bathroom, refrigerators etc. For instance, there’s an average of 60 inmates per cell for only one bathroom and one toilet.

In Tripoli prison for men, detainees must pay for the detergent and cleaning materials, they are not provided free of charge.

c- Health

The health services provided inside the Lebanese places of detention are not sufficient and appropriate for all the inmates cases. There is a deficiency in the number of medications existing in the prisons’ medical center of the as well as a shortage in providing the needed medication according to the type of illness.

The rule 24 of Mandela rules stipulates that *“The provision of health care for prisoners is a State responsibility. Prisoners should enjoy the same standards of health care that are available in the community, and should have access to necessary health-care services free of charge without discrimination on the grounds of their legal status”*. Moreover *“Health-care services should be organized in close relationship to the general public health administration and in a way, that ensures continuity of treatment and care, including for HIV, tuberculosis and other infectious diseases, as well as for drug dependence”*.

The new inmates are not undergoing a medical examination and there are neither monthly nor yearly health examinations. Usually sick inmates present their demand to their “Shawish” in order to see the doctor. If the relevant medication is not available in the pharmacy, the prisoner has to buy it on his own account or can refer to an NGO working in the prison.

As for the physically disabled inmates, and according to inmates and ex-inmates, they are assisted by their fellow prisoners. If disabled prisoners do not have friends inside the cell, they pay other inmates to assist them. As for the detainees with mental health disorder, they do not receive specific treatment inside prison and only NGO initiatives fill the gap by providing psychological and psychiatric consultations in addition to psychotropic treatment. While the 109 (§ 2) of Mandela rules specifies that *“prisoners with mental disabilities and/or health conditions can be observed, and treated in specialized facilities under the supervision of qualified health-care professionals. Besides, there is no special diet for inmates who have critical medical conditions and for elderly detainees”*.

d- Searches of prisoners and cells.

Rule number 51 in the Mandela rules recognizes that: *“Searches shall not be used to harass, intimidate or unnecessarily intrude upon a prisoner’s privacy. For the purpose of accountability, the prison administration shall keep appropriate records of searches, in particular strip and body cavity searches and searches of cells, as well as the reasons for the searches, the identities of those who conducted them and any results of the searches.”*

According to the prison staff, inspectors in Tripoli prison for men are not trained to conduct their job and at the same time inmates are not informed about inspection’s regulations. Inspections are executed regularly in order to detect illegal materials possessed by detainees.

Based on the testimony of the prisoners in 2016, inspection is executed by 8 to 10 members from the *Intervention Regiment* and by 5 to 6 members among the ISF forces working inside Tripoli prison for men. The role of the Intervention Regiment is to assure protection for the ISF members who are checking the prisoners’ belongings. Security forces do not carry weapon but only wood sticks. Prisoners alleged that inspectors mistreat them during the inspection. Moreover, they confiscate their belongings such as clothes and mattresses.

e- Access to information and complaints procedures:

The rule 54 of the general application in the Mandela rules stipulates the following:

“Upon admission, every prisoner shall be promptly provided with written information about:

(a) The prison law and applicable prison regulations;

(b) His or her rights, including authorized methods of seeking information, access to legal advice, including through legal aid schemes, and procedures for making requests or complaints;

(c) His or her obligations, including applicable disciplinary sanctions; and

(d) All other matters necessary to enable the prisoner to adapt himself or herself to the life of the prison”.

Detainees, in Lebanese prisons, are not informed about the prison regulation, despite such information being part of the prisoner's fundamental rights. The system of punishment is not formalized to prisoners in a written set of rules and internal regulations are only orally circulated between inmates. Prisoners who are newly detained and their families do not receive any explanation regarding the rules mentioned above.

On the other hand, the rule 56 (1) stipulates the following: *“Every prisoner shall have the opportunity each day to make requests or complaints to the prison director or the prison staff member authorized to represent him or her”*. As for the rule 57 (2), it specifies that *“Safeguards shall be in place to ensure that prisoners can make requests or complaints safely and, if so requested by the complainant, in a confidential manner. A prisoner or other person mentioned in paragraph 4 of rule 56 must not be exposed to any risk of retaliation, intimidation or other negative consequences as a result of having submitted a request or complaint”*.

There is a theoretical possibility to complain about treatment and conditions in Lebanese places of detention. However, in practice, this procedure is not used because prisoners have concern about maintaining their confidentiality and about whether complaints will lead to any formal process of verification. In the Tripoli Prison for men, the modalities for filing complaints means that they are either given orally in public or in writing through a box, to which other prisoners especially the "shawish" has access. This puts complainants at risk of reprisals from other prisoners and prison staff and the possibility of oral complaint has not formalisation and is thus not expected to generate a formal response.

B- NPM/NHRI

On the 27th of October 2016, Lebanon made a noteworthy progress related to the Human rights situation in the country. The Lebanese parliament adopted the *National Human Rights Institution law which comprises the National Preventive Mechanism”* in line with the Paris Principles.

The NHRI law has specified the process of its members’ selection. It should be consisted of 10 independent experts, 5 of which will be for the NPM, with a non-renewable 6 years’ mandate. The cabinet is currently studying the nominees’ portfolio in order to select the NHRI and NPM members.

Recommendations:

- The judicial system should accelerate the trials of arrested detainees so that pre-trial detention cases and the overcrowding would decrease.
- The authorities should provide the detainees with all medical services including medications (even if they are not available in the pharmacy) and hospitalization, without charge. Furthermore, authorities should ensure that only health care experts are involved in the management of the medical services to sick inmates, as well as guarantee the provision of all kinds of specialized Doctors and establish an internal drug addiction program.
- Authorities should keep a clean environment in the places of detention to maintain the health situation of the detainees by providing free of charge cleaning and hygienic materials. Additionally, the infrastructural system must be renovated in order to enhance the sanitary facilities inside the places of detention.
- The authorities should establish a complaint system in order to allow the persons deprived of their liberty to make requests or complaints to the chief of prisons and have the opportunity to talk to him freely and in full confidentiality. Hence, every request or complaint shall be promptly dealt with and replied to without delay.
- The Lebanese authorities should conduct undeclared regular visits to inspect places of detention and make sure about decent and safe living conditions of prisoners. On one hand, these visits can lead to the establishment of a plan in order to improve the conditions. On the other hand, the work of the ISF members would be monitored and evaluated, through reports and systematic data collection. All monitoring reports should be published in order to improve the transparency of the monitoring agencies inside the ISF.
- The Lebanese authority should make sure that the appointed members of the NPM are qualified experts, and it should guarantee the financial sustainability and institutional and functional independence of the NPM. They should ensure that the NPM experts can access all the places of detention without any restrictions and without fear of reprisal. Additionally, Lebanese authorities should give the civil society the right to monitor places of detention as a complementary measure to the NPM.

6- Redress

The Article 14 of the Convention Against Torture provides survivors of torture the right to redress. Therefore, the Lebanese State is required to *“ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible.”* The establishment of a rehabilitation program for victims of torture and ill-treatment in accordance with General Comment #3 from UNCAT is a crucial element in making this right real and ensuring full eradication of torture.

Domestic law does not provide torture victims a right to rehabilitation or to claim for compensation or any other forms of reparation. Consequently, this is not provided by the Lebanese Government. Instead, NGOs are playing this role by providing torture survivors with rehabilitation and mental health services based on a holistic approach consisting of medical and psychological care as well as legal and social services as stipulated in the general comment #3 in order to restore as far as possible their independence on the physical, mental and social level in addition to reinstate their vocational ability, as well as their full inclusion and participation in society.

In this regard, the Ministry of Public Health - in collaboration with the partners of the National Mental Health Program, WHO, UNICEF, and International Medical Corps- have launched the National Strategy for Mental Health and Substance Use 2015-2020. Restart has provided input to this strategy regarding prisoners and victims of torture. The Mental Health and Substance Use Prevention, Promotion, and Treatment Strategy highlights Lebanon’s vision and objectives for the coming 6 years. The strategy mentions that the goal of targeting vulnerable groups is “to improve access to equitable evidence - based mental health services – preventive and curative – for all persons belonging to vulnerable groups living in Lebanon.” These interventions will focus on ensuring that they “receive comprehensive and equitable mental health services.” Additionally, the strategic objective for survivors of torture is to “train mental health providers working with survivors of torture on properly and timely assessing, documenting and managing the impact of torture on the mental health of the survivors and their families.”

While this is a very welcome progress, Restart center has a concern about this strategy because it is not consistent with international standards on the right to rehabilitation for victims of torture and ill-treatment as outlined in Article 14 of the UNCAT and general comment #3 of the Committee against Torture. It should be specific in terms of providing holistic rehabilitation services which include medical and psychological care as well as legal

and social services. Consequently, the skills of victims of torture shall be enhanced in order to generate circumstances changes which will allow them to have self-sufficiency.

Recommendations:

- 1- The Ministry of Social Affairs and Ministry of Health should develop a program to provide the released prisoners with the rehabilitation and reintegration programs as well as to cover the fees.
- 2- The Government of Lebanon should fully implement the National Strategy for Mental Health and Substance use 2015-2020 specifically the chapter related to torture after being revised and amended according to international standards in order to ensure that victims of torture and ill-treatment receive rehabilitation services that are available, accessible and appropriate in accordance with Article 14 of the Convention against Torture and Human Rights Convention and general comment #3.
- 3- Family members of victims of torture, who are considered secondary victims, should have full access to holistic rehabilitation services.

7- References:

- Conditions of detention; Joint Monitoring Report for Lebanese places of detention prepared by the National Observatory.
- Mandela rules
- Mental Health and Substance Use Prevention, Promotion, and Treatment Strategy Lebanon 2015-2020.
- United Nations Convention against Torture, Art. 14, General Comment No.3