



Submission to the United Nations
Committee Against Torture in
relation to Lebanon's One-Year
Follow-up Response to the
Committee's Concluding
Observations and
Recommendations

Follow-up Report

May, 2018



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Introduction:

In accordance with article 19 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the UN Committee against Torture, considered the initial report of Lebanon at its 1509th and 1512th meetings, held on April 20 and 21, 2017 and adopted the concluding observations at its 1532nd and 1533rd meetings, held on May 8, 2017. The importance of the follow-up procedure remains in assessing and measuring the compliance with the Committee's recommendations in which the implementation is a priority along additional information related to the other recommendations.

At the end of the concluding observations to Lebanon, the committee requested the State party to provide, by 12 May 2018 follow-up information related to paragraphs 13 (definition and criminalization of torture), 17 (fundamental legal safeguards), 29 (national human rights institution and national preventive mechanism) and 43 (internal prison complaints system). Within this context, the Lebanese Government is invited to submit its follow-up report stating whether the recommendations have been implemented or some actions and schedules have been in place in this regards.

This report will feature our concern apropos the progress in the fulfilment of the Committee's prioritized recommendations and consequently the failure in complying with the UN Convention against Torture. It is to be noted that no consultations were done by the government with the civil society and non-governmental organizations.

A- Definition and criminalization of torture:

CAT recommendation:

In line with its obligations under the Convention, as recommended by the Committee in its inquiry (A/69/44, Annex XIII, para. 38 (b)) and the commitment that it made during the universal periodic review in November 2015 (see A/HRC/31/5, paras. 132.34 to 132.36 and A/HRC/31/5/Add.1), the State party should define torture in full conformity with article 1 of the Convention, and ensure that such offences are punishable by appropriate penalties that take into account their grave nature, in accordance with article 4 (2) of the Convention. It should also establish that there shall be no statute of limitations for the offence of torture.

In September 26, 2017, the Lebanese parliament amended article 401, of the Lebanese Penal Code, which criminalizes torture. However, the new law (Law 65) fails to comply with the norms of the CAT and neglects concerns raised by the UN Committee against Torture in April 2017 in what relates to including ill-treatment. Moreover, the definition of torture in the new law denotes the act of torture committed solely "during the initial investigation, judicial investigation

and trials". Hence, this definition limits the circumstances in which torture might be practiced and therefore criminalized, without taking into consideration torture performed during the transport of detainees, detention or even in other places of deprivation of liberty such as mental health hospitals and welfare institutions. Besides, law 65 stipulates that Judicial proceedings can only be initiated within a three to ten-year period after the victim has been released from prison, varying in length depending on the gravity of the act. In accordance with Article 4 of the UNCAT, law No. 65 should criminalize any attempt to commit torture, and any act by any person which constitutes complicity or participation in torture.

After several roundtables and discussions with concerned parties, it was proved that this law triggered ambiguity among Judges and General prosecutors who affirmed that applying it deems debatable especially in what concerns jurisdictions of military courts over cases of torture involving state agents.

Whereas various gaps have been identified in hindering efforts to prevent and criminalize torture,

Whereas Lebanese legislation doesn't strictly comply with the UN Committee against Torture's concluding observations in relation criminalizing torture and ill-treatment,

Whereas Law 65 doesn't state clearly the procedures to be adopted for the right to rehabilitation according to General Comments No. 3

For all the above-mentioned reasons, the non-governmental organizations and the civil society are called to draft a new Anti-Torture act and to lobby for its adoption.

B- Fundamental legal safeguards

CAT recommendation:

The State party should:

(a) Ensure that all detainees are afforded, by law and in practice, all fundamental legal safeguards from the very outset of their detention, including the rights to confidential access to a lawyer, in particular during the investigation and questioning; to have the assistance of an interpreter, if necessary; to be brought before a judge within the time prescribed by law; and, to request and receive an independent medical examination. All medical examinations of detainees should be conducted out of hearing and, whenever the security allows, out of sight of law enforcement officers;

Thus far, the Lebanese government didn't take any recent action to instigate this recommendation. However, and with an eye to forge ahead in fulfilling Lebanon's obligations

towards the International Community, Restart Center for Rehabilitation of victims of violence and torture with the collaboration of Lebanese experts have developed four Green Papers covering the four urgent prioritized recommendations identified by the Committee Against Torture and has provided a technical support to the Lebanese government throughout a 2 days' Workshop aiming at designing a Lebanese Road Map Towards the Implementation of the CAT Four Urgent Prioritized Recommendations with the presence of the UN member of the Committee against Torture and country Rapporteur for Lebanon Mr. Abdel Wahab Hani.

During the workshop, a Judge has suggested that while waiting for the adoption of amending laws 32 and 47 of the penal code, the following prompt and effective actions can be taken:

1. To conduct a literature review about good legal practices of laws related to legal safeguards precisely about the presence of lawyers during initial investigations.
2. To conduct workshops or panel discussions between the judges working in the Public Prosecution or those who have previously worked in this field, among themselves and with international experts - in order to raise the problematic of the presence of the lawyer during the interrogation session and to raise the logical arguments for reaching a common understanding of The text consistent with the interests of the defendant and enable the lawyer to attend the interrogation of his client before the members of the judicial police.
3. To Issue a memo by the Attorney General at the Court of Cassation requesting all the judicial police members to enable the lawyer to attend the interrogation of the suspect, provided that the latter does not have the right to ask questions until after the interrogation is completed.
4. To conduct a review of some laws in force in other countries where legal and legislative system is similar to the Lebanese system, making it easier for those involved in legislation or the judiciary to build on similar legal experiences and practices.
5. To initiate an internal dialogue within the Bar Association members on the amendment of Article 47, specifically the need of the lawyer's presence during the initial investigations and to present their proposals and point of view regarding Article 47.
6. To establish a neutral committee of lawyers by the Bar Association that is allowed to attend initial investigations.
7. To restructure the Forensic Department in the Ministry of Justice.
8. To conduct trainings for forensic doctors on Istanbul protocol.
9. To form a fund to pay the dues of doctors appointed to examine the detainees, so that the State will bear this cost and will not be on the detainee's account.
10. To Dedicate the right of the detainee's physical and psychological examination, through the amendment of Articles 32 and 47 of the Code of Criminal Procedure.
11. To form of a fund to pay the dues of translators, so that the State will bear this cost and not the detainee.

Finally, the amendment procedure of articles 32 and 47 of the penal code should be developed in order to guarantee the legal safeguards of the persons deprived of their liberty in line with the CAT recommendations.

(b) Make audio and video recording of interrogations of all persons questioned a standard procedure. Such recordings should be kept in secure facilities and be made available to investigators, detainees and lawyers; and

As for the recorded interrogations, the Internal Security Forces has established 5 pilot judicial police centers (3 are functioning and 2 in process) where interrogations are recorded and documented.

(c) Consider introducing a comprehensive criminal legal aid system, free of charge for those who do not have sufficient means to pay for legal representation.

A legal text is required to amend the provisions of Articles 32 and 47 of the Code of Criminal Procedure so that the judge may request the president of the bar association to appoint a lawyer for the suspect at the expense of the bar association. But, the lack of fund and the ambiguity of the law remain the fundamental obstacles to ensure the provision of the legal aid system.

C- National Human Rights Institution and National Preventive Mechanism

CAT recommendation:

The Committee urges the State party to complete the selection process for the appointment of the members of the National Commission for Human Rights in full compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles). The State party should ensure that the National Commission for Human Rights effectively fulfils its mandate as a national preventive mechanism, with a dedicated structure and adequate resources for that purpose. It should also guarantee that the national preventive mechanism is granted access to all places of detention and is able to carry out unannounced visits, in accordance with its mandate and the provisions of the Optional Protocol to the Convention and in keeping with the Subcommittee on Prevention of Torture's guidelines on national preventive mechanism (CAT/OP/12/5).

Regrettably, the selection process of the NHRI and NPM members wasn't accomplished yet, due to the following:

- 1- The pre-selection of the members was not transparent.
- 2- The number of nominees was not done according to law 62 due to the full-time job requirement and other related necessities.
- 3- Some of the pre-selected persons were not qualified.
- 4- The interference of the political parties and the sectorial aspect in the nomination process

- 5- The Human Rights Parliamentary Committee didn't carry out the nomination according to specific criteria.
- 6- The NHRI was scheduled on the Cabinet's agenda following the stipulations of Rome conference to boost Lebanese Army. Nevertheless, no nominations have been in place.
- 7- The mandate of the current cabinet will end on May 20, 2018, and therefore it is improbable to end the process of nomination within these coming couple of weeks. Hence, the new cabinet will not be formed before several months.

D- Internal prison complaints system

CAT recommendation:

The Committee reiterates its previous recommendation under the inquiry procedure (see A/69/44, Annex XIII, para. 38 (o)), that the State party establish a fully independent complaints mechanism with the authority to investigate promptly, impartially and effectively all reported allegations of and complaints about acts of torture and ill-treatment.

This recommendation is about to be achieved in Roumieh central prison which hosts over 50 % of the prisoners in Lebanon. The Internal Security Forces' human rights office, which is located in Roumieh prison compound, initiated an internal complaint system which consists of using complaints boxes inside the prison with the intention of fulfilling this required recommendation. Roumieh prison will be the first prison that will start to use an internal complaint system in the near future. The members of the ISF human rights office developed the procedure to be in place in this regards, and prepared the needed materials for the execution of this system but they are waiting for few details before taking action.

The human rights officers at Roumieh prison who are under the management of the internal security forces directorate are in charge of the full implementation of this system. Boxes are planned to be placed in every building inside Roumieh prison including Block A, B, C, D and the blue house for the inmates suffering from psychiatric disorders in addition to the public areas such as the backyard, and the spots where there are cameras and members of ISF in order to protect the inmates from any ill-treatment and reprisal acts. The key of the boxes will not be with the prison's manager, but with the human rights ISF officer who is in charge of checking up the boxes on a daily basis, except for weekends and holidays, and collecting the complaint forms and treating the problems internally. After evaluating the efficiency of this pilot project, the latter shall be established in the 2 other biggest prisons in Lebanon: Tripoli- Qobbeh in North Lebanon and Zahleh in Bekaa.

It should be noted that the State party has not yet established an independent State body or mechanism to investigate complaints of torture and ill-treatment against law enforcement officers.

In order to guarantee the full execution of this recommendation, we urge the Lebanese government to adopt a complaint system based on the following:

1. The complaints system should have a preventive function.
2. The complaints system should be accessible.
3. The Office of Complaints shall enjoy the following principles:
 - a- To deal with complaints in transparency, fairness and effectiveness.
 - b- To be trustworthy and respectful by the concerned authorities.
 - c- To ensure accountability.
 - d- To respect the “do no-harm principle” and to take into consideration reprisal acts.

Finally, it is required to develop an internal complaints system for Lebanese prisons that would comply with The United Nations Standard Minimum Rules for the Treatment of Prisoners (Mandela rules), and in conformity with the Lebanese context.

Conclusion:

At the end, Civil Society is relying on its lobbying and continuous efforts towards to fulfilment of the UN CAT’s recommendations as well as on the Committee against Torture’s follow-up.