



# Arbitrary Detention and Torture in Lebanon

- 2013 -

Endless Suffering of Inmates - A Threat to Justice

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*Disclaimer: The opinions expressed in this report do not necessarily reflect the view of the Arab Human Rights Fund.*

## Presentation of CLDH

The Lebanese Center for Human Rights (CLDH) is a local non-profit, non-partisan Lebanese human rights organization based in Beirut. CLDH was created in 2006 by the Franco-Lebanese Movement SOLIDA (Support for Lebanese Detained Arbitrarily), which has been active since 1996 in the struggle against arbitrary detention, enforced disappearance and the impunity of those perpetrating gross human rights violations.

CLDH monitors the human rights situation in Lebanon, fights enforced disappearance, impunity, arbitrary detention and racism and rehabilitates the victims of torture. CLDH regularly organizes press conferences, workshops and advocacy meetings on human rights issues in Lebanon and collects, records and documents human rights abuses in reports and press releases.

CLDH team on the ground supports initiatives aimed at determining the fate of all missing persons in Lebanon.

CLDH regularly follows up on numerous cases of arbitrary detention and torture in Lebanon in coordination with Lebanese and international organizations, and with the United Nations Working Group on Arbitrary Detention WGAD and the UN Special Rapporteur on Torture.

CLDH opened in 2007 a Rehabilitation Center for the victims of torture in Beirut, Centre Nassim, member of IRCT (International Rehabilitation Council for Torture victims), which provides multi-disciplinary professional support and case management for victims of torture and their families.

CLDH compiles a daily press review on human rights violations and on-going judiciary cases in Lebanon and updates several human rights blogs.

CLDH is a founding member of the Euro-Mediterranean Federation against Enforced Disappearance (FEMED), a member of the Euro-Mediterranean Network of Human Rights (REMDH), a member of the SOS Torture Network of the World Organization against Torture (OMCT), and a Founding Member of the Follow-Up Committee on Mass Graves, which advocates for the respect of international standards for exhumation practices.

## Introduction

At the beginning of 2011, CLDH published a report about arbitrary detention and torture entitled: "Arbitrary detention and torture: the bitter reality of Lebanon". The information was based on facts and statistics regarding these issues gathered and established in 2009 and 2010.

The current report is an update of the report mentioned above and it is aiming at taking stock of the current practice of arbitrary detention and torture in Lebanon. It provides updated information about the situation and it is directed to organizations like CLDH who are struggling for an improvement of human rights in the country and to policy makers who have to take positions about these violations.

Unfortunately, the issues of arbitrary detention and torture in Lebanon are part of an extremely large number of violations perpetrated every day on the Lebanese territory. They are also the kind of violations that the public opinion is not really aware of since the crimes are being committed in places of deprivation of liberty, far away from the sight of the ordinary citizens and visitors of the country.

Nevertheless, arbitrary detention and torture are real threats to the credibility of the judiciary. It determines its strength and capacity, and CLDH considers that a fair and independent justice system in Lebanon is the only solution to put an end to all human rights violations.

The justice system has to be able to bring truth and justice to the victims and to protect the citizens from repeated violations. To this end, the respect of the rights of the suspects is the only safeguard. Indeed, torture paves the way to justice miscarriages and thus does not protect either victims of crimes or society. Arbitrary detention creates unnecessary tension in the society, and thus induces violence and further violations.

**Putting an end to arbitrary detention and torture in Lebanon is not only a necessity, but also a very feasible thing to do since it does not require particular financial efforts, simply a real political will.**

In this report, CLDH has attempted to depict the current practices of arbitrary detention and torture in Lebanon, with a particular focus on all the immediate measures that could be taken by the policy makers to improve on a short term basis the current situation.

*Kofi Annan once said:*

*"We have the means and the capacity to deal with our problems, if only we can find the political will."*

## Arbitrary Detention

### Definition

A detention is arbitrary when it does not comply with national legislation, other relevant international standards set forth in the Universal Declaration of Human Rights and relevant international instruments ratified by Lebanon.

Confronted with the alarming growth of this practice, and with the lack of a clear definition of "arbitrary" detention in international instruments, the United Nations Commission on Human Rights established in 1991 the Working Group on Arbitrary Detention.

To enable it to carry out its mandate using sufficiently precise criteria, the United Nations Working Group on Arbitrary Detention has defined as arbitrary any detention which is contrary to the Human Rights provisions of the major international human rights instruments, and more specifically has defined three categories of arbitrary detention:

1. Detention without a legal basis for the deprivation of liberty (as when a person is kept in detention after the completion of his/her sentence or despite an amnesty law applicable to him/her).
2. Detention of a person for exercising his/her rights and freedoms guaranteed in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.
3. Detention of a person after a trial which did not comply with the standards for a fair trial set out in the Universal Declaration of Human Rights and other relevant international instruments.

In this report, this same classification is used to identify the different categories of people arbitrarily detained in Lebanon.

## A. Category I of Arbitrary Detention:

**Definition:** When it is clearly impossible to invoke any legal basis justifying the deprivation of liberty (as when a person is kept in detention after completing his sentence or despite an amnesty law applicable to him)

Currently in Lebanon, three main groups should be considered as victims of “category-one of arbitrary detention”.

- The foreigners detained after the completion of their sentences
  - The inmates held in prisons for administrative or financial reasons
  - People sentenced to several prison terms and who therefore should have been released in application of the law on “cumulative sentence”.
- ✓ **Persons having completed their sentence: improvements but still no real solution**

### Foreigners

In 2011 and 2012, CLDH noticed an improvement in the coordination between the ISF and the General Security. The process of transferring inmates who had completed their sentences in the Lebanese prisons (under ISF control) to the General Security detention center (in charge of either repatriating them to their country of origin or releasing them in Lebanon) became more effective.

The number of foreigners having completed their sentence and remaining in prison significantly decreased in 2011 and 2012 in comparison with 2009 and 2010. The delay for transferring them to the General Security appeared to be few days in general and that’s an improvement, but still there were many inmates remaining in arbitrary detention at the General Security detention center for prolonged periods without legal basis.

The foreigners that are transferred to the General Security at the end of their sentence can be categorized as follows (according to treatment):

- Non-ID Lebanese and Palestinian refugees
- Syrian refugees
- Iraqi and Sudanese refugees
- Migrant workers

### **Non-ID Lebanese and Palestinian refugees**

Non-ID Lebanese and Palestinian refugees residing in Lebanon are usually transferred to the General Security at the end of their sentence in the Lebanese prisons. Most common is that they are getting released within few days, once their paperwork has been completed.

## **Syrian refugees**

During 2011 and 2012, the war in Syria pushed thousands of Syrians to seek refuge in Lebanon. The international community considers them as asylum seekers or refugees while the Lebanese authorities view them as “displaced persons”, with reference to the historical relation between Lebanon and Syria.

In 2011, the Lebanese authorities were deporting released inmates back to Syria which is a clear violation of Article 3 of the Convention against Torture. The government kept on doing so up until August 2012 when the international community and human rights organizations denounced the deportation of 14 Syrians. Since then, the practice seems to have stopped and in the end of 2012 the Syrian refugees were receiving the same treatment as the non-ID Lebanese and the Palestinian refugees in Lebanon; they were being released in Lebanon. Nevertheless, their stay in the country remained “illegal”, since Lebanon did not ratify the 1951 Geneva Convention on the refugee’s status.

### **➤ Arbitrariness of detention of non-ID Lebanese, Palestinian and Syrian refugees**

Even if the treatment for the non-ID Lebanese, Palestinian and Syrian refugees is fairer than the one inflicted to other foreigners, the detention beyond the end of their sentence is still unacceptable, even if it is only for a short time. Every day extra that is spent in Lebanese prisons or at the General Security detention center has to be considered as an arbitrary detention.

## **Iraqi and Sudanese refugees**

During the reporting period CLDH has received information about cases of prolonged arbitrary detention, ranging between 3 and 10 months, of Iraqi and Sudanese refugees at the General Security detention center. At least one case of deportation to Iraq of a recognized Iraqi refugee was also reported to CLDH.

The refugees should not be deported to their country of origin since they have a well-founded fear of persecution and this is often established by the UNHCR (United Nations High Commissioner for Refugees). But since Lebanon has not ratified the 1951 Geneva Convention on the refugees’ status, refugees are considered as illegal migrants. Hence, they cannot be released in Lebanon and they remain detained arbitrarily for prolonged periods.

### **➤ Procedural gaps leading to lengthy arbitrary detention of refugees**

The release of the Iraqi and Sudanese refugees in Lebanon depends on whether an agreement can be found between UNHCR and the General security regarding their resettlement in another country. Some refugees simply don’t meet the criteria for resettlement in a third country. The ones who are accepted and the ones who are waiting to be accepted are sometimes kept in the General security detention center until the paperwork for their travel is completed. Others are released on a case by case basis, in agreement between UNHCR and the General Security.

In short, the legal gap in which the Iraqi and Sudanese refugees fall depends immensely on the *coordination between UNHCR, the General Security, and the countries of resettlement.*

This coordination showed tendency of improvement during the reporting period and in comparison with our previous report the situation became slightly better. With that said, the authorities still fail to protect the refugees from lengthy arbitrary detention and *initiatives by all concerned parties could easily put an end to this practice*. They are detailed in the recommendations.

### **Migrant workers**

Migrant workers, illegal migrants and rejected asylum seekers also spend weeks or months of arbitrary detention in the General security detention center pending their repatriation.

Migrant workers are often stuck in the retention center because the employers are refusing to pay their plane tickets.

Illegal migrants often await their identification by their embassies and the issuance of “laisser-passer” and plane tickets to be repatriated.

Rejected asylum seekers have to wait for the UNHCR to notify the General security of their rejection and then, like the illegal migrants, they await identification by their embassies and the issuance of “laisser-passer” and plane tickets.

- The *prolonged arbitrary detention of this category of inmates could be avoided* since most of them have already spent time in the Lebanese prisons. During this time all the paperwork could be terminated, thus avoiding arbitrary detention and allowing immediate repatriation at the end of the prison term.

### **Other cases of detention beyond the end of the sentence or in spite of a release order**

In some cases, persons are kept in detention in the Lebanese prisons for financial or administrative reasons. While the judiciary ordered their release, the latter remained arbitrarily detained for excessive periods of time beyond the end of their sentence.

In the framework of its legal assistance project, CLDH identified an inmate who had been allegedly kept for two months beyond the end of his sentence because he did not have 8 dollars to pay for his judiciary fees. In two other cases, the release papers sent by the court were not received at the prison. The inmate was arbitrarily detained for days or even months.

### **Violations of Lebanon’s international and national commitments**

Keeping a person detained beyond the end of his/her sentence or in spite of a release order constitutes a violation of article 9.1<sup>i</sup> of the International Covenant on Civil and Political Rights, which states that “*no person shall be arrested or detained arbitrarily. No person shall be deprived of his liberty except on such grounds and in accordance with the procedure prescribed by law.*” Moreover, the Human Rights Committee points out that article 9, paragraph 1 is applicable to all deprivations of liberty, whether in criminal cases or in other cases such as (...) immigration control.<sup>ii</sup>

The Lebanese Law explicitly stipulates that “*all persons convicted must be released the day their sentence expires*”<sup>iii</sup>. The internal rules of prisons stipulate that will incur a penalty of imprisonment of

one to three years, all guard, man or woman who agree to imprison, actually imprison or keep in custody a person without any justification or legal documents justifying such detention, or will maintain the latter in prison after the expiration of his sentence.<sup>iv</sup>

✓ **Law on cumulative sentences: dozens of prisoners eligible for release are still in prison.**

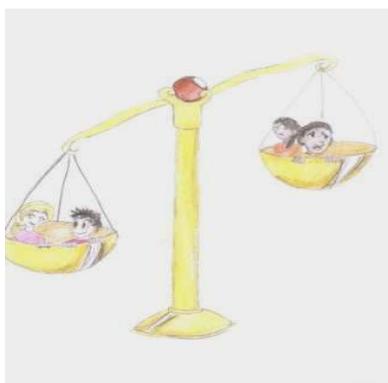
Article 205<sup>v</sup> of the Lebanese Penal Code stipulates that if a person has been convicted to serve multiple sentences, the severest penalty shall be enforced. The matter shall either be referred to the Judge for a decision, or the lawyer of the detainee may subsequently submit a legal claim in this regard.

During this research it was not possible to assess the exact number of prisoners in Lebanon who could be released if a lawyer would be ready to submit a legal claim to allow their sentences to be served concurrently.

Nevertheless, 17 cases of people in this situation and thus eligible for release were referred to CLDH during the period covered by the present report.

## B. Category II of arbitrary detentions

**Definition:** The deprivation of liberty results from the exercise of the rights or freedoms guaranteed by articles 7<sup>vi</sup>, 13<sup>vii</sup>, 14<sup>viii</sup>, 18<sup>ix</sup>, 19<sup>x</sup>, 20<sup>xi</sup> and 21<sup>xii</sup> of the Universal Declaration of Human Rights and, insofar as States parties are concerned, by articles 12<sup>xiii</sup>, 18<sup>xiv</sup>, 19<sup>xv</sup>, 21<sup>xvi</sup>, 22<sup>xvii</sup>, 25<sup>xviii</sup>, 26<sup>xix</sup> and 27<sup>xx</sup> of the International Covenant on Civil and Political Rights.



### ✓ **Foreigners: detentions on the grounds of national discrimination**

While a Lebanese citizen will be released the same day of the completion of his sentence, a person having a foreign nationality will remain in detention. This constitutes a discrimination based on nationality and a violation of Article 7 of the Universal Declaration of Human Rights and Article 26 of the International Covenant on Civil and Political Rights. Moreover, the Human Rights Committee recalled that aliens receive the benefit of the general requirement of non-discrimination in respect of the rights guaranteed in the Covenant<sup>xxi</sup>.

### ✓ **Arrests on the grounds of sexual orientation**

Article 534 of the Penal Code criminalizes "sexual intercourse against nature", without specifying the exact nature of the offense. Offenders face up to one year in prison. This article is mainly used to penalize homosexuality, adultery, sodomy and fornication.

Provisions of article 534 of the Lebanese Penal Code constitute a violation of Article 7 of the Universal Declaration of Human Rights and Article 26 of the International Covenant on Civil and Political Rights.

In August 2012, Human Rights Watch denounced that the Internal Security Forces vice squad arrested 36 men during the July 28 raid on a movie theater suspected of screening pornographic movies in the Burj Hammoud district of Beirut. This was the third such raid in the recent months. The men were transferred to Hbeich police station, where they were subjected to anal examinations. The examinations are conducted by forensic doctors on orders from the public prosecutor to "prove" whether a person has engaged in homosexual sex. The police released all of the men several days later but charged three of them under article 534, partly on the basis of the examinations.

On August 17, 2012 the Daily Star newspaper reported that two Lebanese men were detained (...) on suspicion of engaging in homosexual acts in Ashrafieh. According to security sources the men, aged 42 and 22, were caught "carrying out indecent acts" in a vehicle. They were referred to the Vice Squad of the Judicial Police. Under Article 534 of the Lebanese Penal Code, sexual relations "contradicting the laws of nature" are illegal and violators may be punished by up to one year in prison."<sup>xxii</sup>

## C. Category III of arbitrary detentions

**Definition:** The total or partial non-observance of the international norms relating to the right to a fair trial, established in the Universal Declaration of Human Rights and in the relevant international instruments accepted by the States concerned, is of such gravity as to give the deprivation of liberty an arbitrary character.

- ✓ **Hundreds of persons arrested on security charges have been subjected to procedure; violations that made their detention arbitrary.**

Whether arrested on terrorism or espionage charges, the detainees arrested in such cases over the past five years have seen their rights systematically flouted. Custody for an excessive period of time, torture, being denied access to lawyers and relatives for the duration of interrogations, prolonged delay in bringing the accused before an investigative judge, delayed ruling...

It is worth noting that such practices, whether due to the intelligence services of the Ministries of Interior or Defense, or even the Military Justice, have hardly changed since the end of the occupations. The fundamental principle of the presumption of innocence enshrined in the Universal Declaration of Human Rights<sup>xxiii</sup> and the International Covenant on Civil and Political Rights<sup>xxiv</sup>, under which any person accused of a crime is presumed innocent as long as the latter did not plead guilty to the offense or until the person's guilt thereof was not proven beyond a reasonable doubt during a trial, is systematically flouted.

### **Faysal Moqalled: 7 years in prison and still denied access to Justice**

Faysal Ghazi Moqalled has been waiting more than three years for his trial in appeal. M. Moqalled was sentenced to life imprisonment on July 31, 2009, on the basis of confessions extracted under torture following his arrest on February 8, 2006. Arrested by Hezbollah agents, M. Moqalled was detained illegally in one of their prisons for the duration of 5 months before being handed over to the military intelligence at the Ministry of Defense detention center where he stayed until March 26, 2008.

During these months of investigation, Faysal Moqalled was allegedly subjected to detention in a less than 2 square meter cell for 5 months, tortured by electricity and subjected to mock execution by gas. He was also allegedly subjected to the balanco (hanged from the ceiling with his arms tied in the back), to fallaqa (repeated beatings on the sole of the feet) and to very serious threats.

He first saw a lawyer more than two years after his arrest.

During the investigation, Faysal Moqalled was reportedly forced to sign confessions. On July 31, 2009, the military court sentenced him to life imprisonment for providing information to the Israeli enemy to help it win the war (although he had been detained for 5 months before the Israeli attack); having entered Israel without a permission (which is proven not to have happened); and having worked with the enemy's army, which Faysal Moqalled strongly denies.

During his trial, Mr Moqalled complained to the judge of the torture he was subjected to, but the judge did not consider the allegations.

On October 13, 2010, after a number of human rights organizations – including CLDH - denounced the allegations of torture in this case, Faysal Moqalled was transferred illegally and secretly (his lawyer was not informed) from Roumieh central prison to the Ministry of defense detention center where he was reportedly investigated about the publication of the NGOs regarding his case, his allegations of torture and the intelligence services allegedly tried to intimidate him.

As of the beginning of 2013, Faysal Moqalled remains detained and his trial in appeal keeps being postponed.

**Tarek Rabaa case: a civilian sued by the military court on the basis of confessions extracted under torture.**

Tarek Rabaa, a 41-years old Lebanese citizen, working as engineer at Alfa Telecom Company, was summoned to the Ministry of Defense for investigation on 12 July 2010. There, he was asked about a French phone number he received a call from, on his Lebanese mobile, while he was attending a training session in France in 2007. The Lebanese army intelligence suspected that this number belonged to a Mossad agent. It was later established by his lawyer that this number is in fact related to a transportation company that was dealing in France with the group of Lebanese trainees from the Alfa Telecom Company. Mr. Rabaa answered the questions posed to him by the Lebanese army intelligence.

Right after that, Mr. Rabaa was reportedly handcuffed and forcibly undressed. During his detention at the Ministry of Defense detention center he was allegedly tortured with electric shocks, additionally he was left standing during 20 days and slapped very severely on his ears. He was allowed to see his sister - acting as his lawyer- at first only 32 days after his arrest. According to available information, he was subjected to torture and ill-treatment for 108 days at the Ministry of Defense detention center - before being transferred to Roumieh prison, where he is still detained.

During the investigation, Mr. Rabaa refused to sign most of the documents presented to him by the Lebanese army intelligence, but his full name (not his signature) was handwritten at the bottom of the pages and then presented to the military justice as his “confession”. On the basis of the above mentioned documents the military justice issued an arrest warrant on 28 July 2010, 16 days after the arrest. He was charged with collaboration with Israel under articles 274, 275 and 278 of the Lebanese criminal code.

His trial in front of the military court began on 7 February 2011 (at this session Mr. Rabaa lost consciousness and had to be taken to hospital).

His defense presented all the proofs of his innocence to the military justice and on 27 June 2011 a forensic doctor provided the military justice with a medical certificate that proves he was subjected to torture, but the military justice refused to consider it.

To date, Mr. Rabaa is still being detained and his trial, based on confessions extracted under torture, is still ongoing.

### ✓ **Before the civil courts: systematic violations of the right to a fair trial**

During this study it was impossible to estimate the number of persons convicted by civil courts, resulting from unfair trials. It is likely that these cases represent hundreds of prisoners currently held in Lebanon.

#### **Assem Kakoun has been detained arbitrarily for 23 years**

Assem Kakoun was arrested on January 6, 1990 in Hammanam at the house of Rustom Ghazale, head of the Syrian intelligence in Lebanon. The arrest was conducted by the Syrian security services in Lebanon, without arrest warrant. Mr. Kakoun was then taken to one of the Syrian intelligence center in Anjar, in the Bekaa. Two weeks later he was transferred to Damascus, in a facility under the Syrian services control, where he was kept for 11 months incommunicado. He was reportedly tortured in all the places of detention. On November 20, 1990, the Syrian authorities handed him over to the Lebanese judiciary police and an arrest warrant was first issued on December 14, 1990, almost one year after his arrest. During more than 7 months, he was then transferred from a detention place to another until his transfer to Roumieh prison where he is still held.

Mr. Kakoun first appeared in front of a Lebanese court accused of a murder that occurred on 25 November 1989. Mr. Kakoun was allegedly accused of this murder following a personal conflict with Mr. Ghazale but he never confessed to it, except under torture.

On February 10, 1993 Assem Kakoun was sentenced to the death penalty by Beirut criminal court, on the basis of article 549 (p) and article 72 (port d'armes) and his sentence was commuted to life imprisonment, on the basis of amnesty law 84/91.

The UN working group on arbitrary detention declared on September 9, 2008 that the detention of Mr. Kakoun is arbitrary under category III of the categories applicable to the consideration of cases submitted to the Working Group.

However, at the end of 2012, Assem Kakoun was still imprisoned in Roumieh prison.

### ✓ **Military Court: large prerogatives and lack of justice**

Already in 1997, the military courts were subjected to criticism by the United Nations Human Rights Committee; in its report, on May 5<sup>th</sup>, 1997, the United Nations Human Rights Committee expressed its concerns about *"the broad scope of the jurisdiction of military courts in Lebanon, especially its extension beyond disciplinary matters and its application to civilians"*, but also about the lack of procedures followed by these courts.<sup>xxv</sup>

Military courts in Lebanon are considered special courts due to their composition, functioning and jurisdiction, which contravenes article 14 of the International Covenant on Civil and Political Rights.

26 % of the persons interviewed in the framework of the present study had been referred to the military court in at least one case.

### **An excessive material competence**

Military courts, which fall under the Ministry of Defense, were granted a very broad jurisdiction to try civilians. These courts are competent to examine not only crimes, misdemeanors and minor offenses under the Military Penal Code, but also any crime, misdemeanor or act entailing an individual criminal responsibility which is linked directly or indirectly to a military.

It has to be noted that all infractions of the prison's rules by the inmates are also referred to the military court.

### **A summary justice**

The trials before military tribunals are far from meeting international standards of fairness:

- Military courts do not motivate in details their verdicts - because of the exceptional nature of the proceedings.
- Trials are often summary - especially before the Permanent Military Court which is distinguished by its swiftness and the exceptional nature of the procedures.
- Access to a lawyer is limited. This form of summary justice violates the rights of the defense.
- Procedures of military courts are not subject to control by any independent judicial authority.

### **Nour Merheb: In Loving Memory**

In 2010 it was for the first time, to our knowledge, in the contemporary history of Lebanon that a young civilian dared to publicly oppose, on the form, against his trial in a military court. The story of Nour Merheb was chronicled on his website and we published it, with his agreement, in our previous report on arbitrary detention and torture<sup>xxvi</sup>.

**Nour committed suicide on September 16, 2011 and his last words before dying were the following: "Power to the people and to each and every human!"**

We could not publish this updated report without remembering Nour, who was a committed activist to the defense of freedom and justice and whom the community of human rights defenders in Lebanon misses so much.

## Torture

### What is torture?

According to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment<sup>xxvii</sup>,

*“The term “torture” means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.”*

The issue of torture is closely linked to the issue of arbitrary detention.

The breaches of procedure do not only lead to arbitrary detention but they also pave the way for the practice of torture. As soon as the fair trial standards enshrined in both the Lebanese law and Lebanon’s international commitments are not met, it goes without saying that in practice it merely opens the opportunity for several violations: incommunicado detention, absence of lawyer and then lack of confidential communications between the lawyer and his client, excessive length of detention in custody, etc... All these flaws in the procedures in force breed an atmosphere of permissiveness and impunity favoring the practice of torture.

Vice-versa, arbitrary detention necessarily results from the practice of torture. Since it was established that a person signed confessions extracted under torture while detained in custody, this person should be released immediately, or else the detention becomes arbitrary.

## Methodology

The information contained in this part of the report is based on interviews conducted randomly with persons arrested in 2011 and 2012 for common law accusations (mainly drug, murder, theft and illegal entry charges).

The reason why we have mainly studied common law cases for this report is that the number of persons arrested in security related cases, such as terrorism or spying has significantly reduced in 2011 and 2012 in comparison with the previous period, when waves of arrests took place (cases in relation with Nahr el Bared clashes – alleged collaborators of Israel). In the security related cases, the frequency of torture during the investigations was close to 100% and the trials of the suspects continued during the period covered by this report, mainly on the basis of their confessions extracted under torture.

The method of documentation used was the following. Each person interviewed was asked about the date of his/her arrest, the accusation, the service that conducted the investigation and the way the investigation took place (more precisely, the persons arrested between 2011 and 2012 were asked: “describe the time you spent in custody”). If the interviewee mentioned violent acts against him/her by the security services, the questions were then focusing on researching the practice of torture (methods used, place, perpetrators, and judge attitude towards torture).

The questions to the interviewees were not aiming at influencing their statements – and the persons who did not mention any torture or ill-treatments were not asked further questions in relation to possible such experiences - and non credible testimonies were removed of the study. CLDH team is experienced in the documentation of torture and able to assess the credibility of the interviewees.

Moreover, the organization is not aiming at pointing out to certain services or parties, but more at giving a fair account of the use of torture in Lebanon.

In addition, the persons were interviewed randomly without any social, national, political or religious discrimination.

The interviews took place in a confidential manner and no external listener was allowed into the interviews.

In order to establish the present statistics, the interviews of persons arrested during the reporting period were then extracted and analyzed in order to provide the most recent statistics on the practice of torture in Lebanon.

## Legal framework



Both the Lebanese law and Lebanon's international commitments constitute a sufficient legal framework to assert that the use of torture is strictly prohibited in Lebanon.

According to the Constitution, the International Covenant on Civil and Political Rights<sup>xxviii</sup>, the Convention against Torture, ratified by Lebanon respectively in 1972 (entered into force in 1976) and 2000, as well as the Universal Declaration of Human Rights<sup>xxix</sup>, supersede domestic law, and are therefore enforceable.

Article 47 of the Criminal Procedure Code specifies that *"if they (the suspects) refuse to speak and remain silent, this must be mentioned in the official report. They must not be forced to speak or to be interrogated, under penalty of invalidity of their statements."*

Article 77 of the Criminal Procedure Code also stipulates that the judge *"must ensure that the suspect made his statement without any external influence, whether moral or physical."*

Article 401 of the 1943 Penal Code stipulates that *"whoever submits a person to acts of violence not permitted by the law for the purpose of obtaining a confession or information about a crime will be punished by imprisonment from three months to three years. If such acts of violence lead to illness or injury, the minimum punishment of imprisonment will be for one year."*

The penalty incurred does not reflect the gravity of the crime of torture. According to the above mentioned article, torture is considered in Lebanon as a misdemeanor punishable by a maximum of three years in prison.

In this respect, the Lebanese Association for Education and Training (ALEF) published an in-depth analysis of article 401 of the Penal Code<sup>xxx</sup>.

In 2012, a group made of representatives of the Human rights commission of the Parliament, the Ministries of Justice, Interior and Defense, Human rights experts of the NGOs including CLDH, managed to submit to the Lebanese Parliament two draft laws; the first aims at criminalizing torture and the second at establishing a national Human rights institute including a National Prevention Mechanism of the practice of torture. The two draft laws are now pending examination and adoption by the Parliament.

## Statistics

In general, 67% of the prison population in Lebanon has been subjected to torture or very serious ill-treatments and has not been granted access to justice and reparation. The inmates interviewed have been arrested between 1987 and 2013<sup>xxx1</sup>.

In 2011 and 2012, **66% of the persons arrested and detained during these two years<sup>xxxii</sup> have been subjected to torture and/or serious ill-treatments.**

If torture mainly took place during the preliminary investigations by the security services, treatments and conditions in the prisons are sometimes a tantamount of torture.

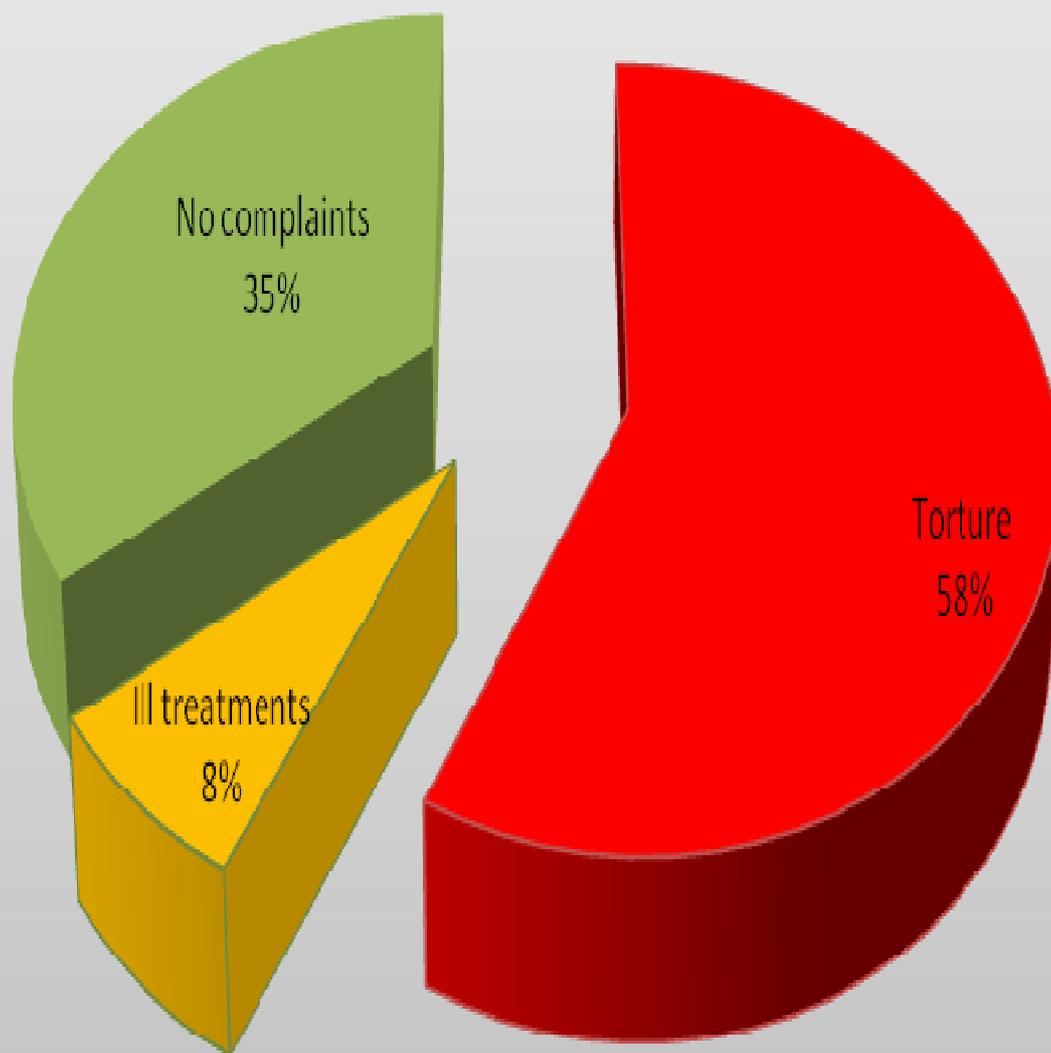
Victims of torture should be ensured the right to an effective remedy for the psychological and physical pain inflicted to them, as well as the right to reparation with compensation and rehabilitation.

In 2011 and 2012 victims of torture were not only denied remedy, but also often remained detained arbitrarily on the sole basis of extorted confessions that should have been cancelled.

Ill treatments during detention also sometimes took place, particularly against vulnerable inmates.

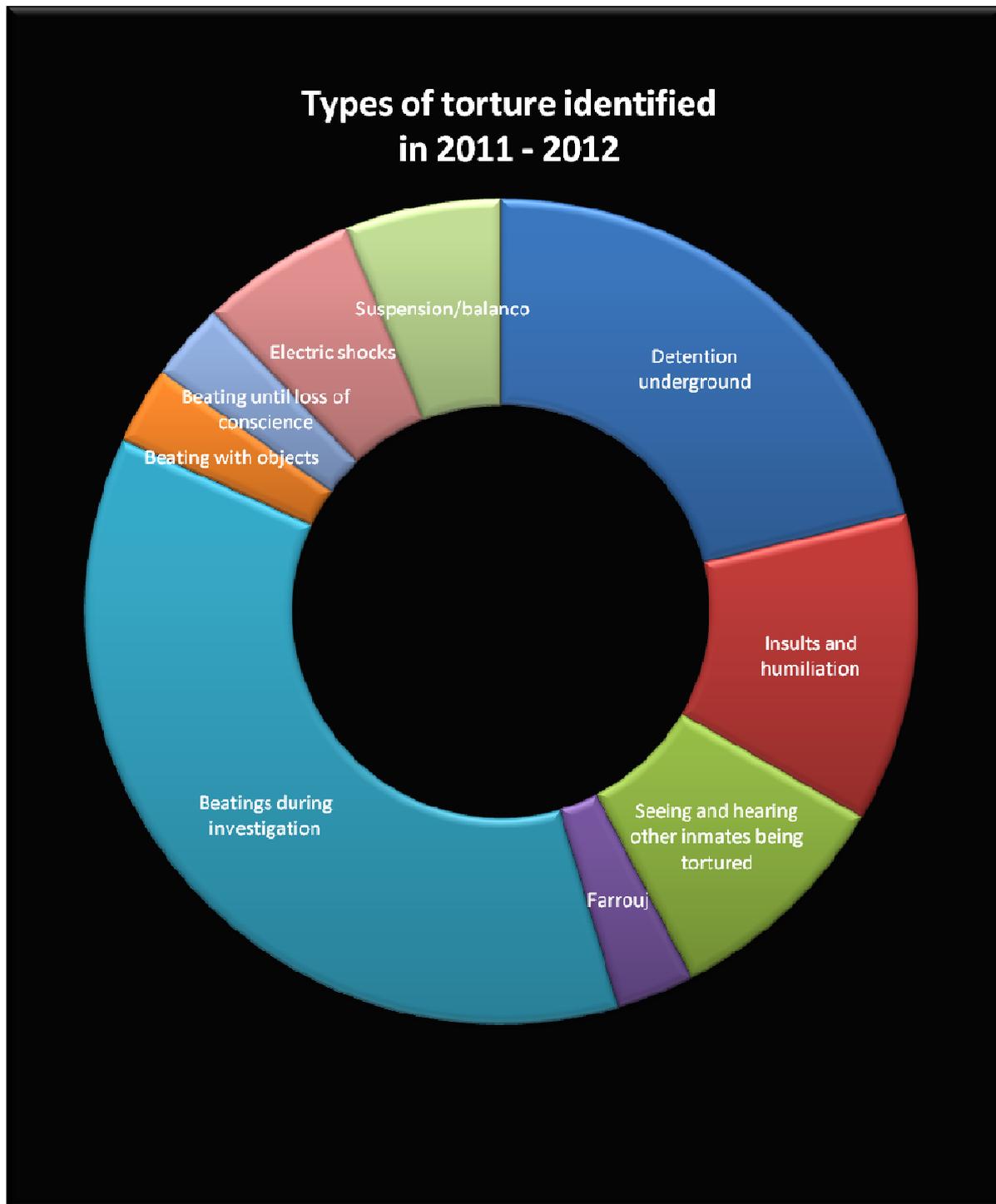
Hence, the practice of torture in Lebanon is not decreasing.

## Torture and ill-treatments evaluation in 2011-2012



## Type and frequency of torture and ill-treatments

### Torture



## A. Physical torture

### ✓ **Beatings**

Most of the persons who have been subjected to violations during the investigations also complained of strong slaps and beatings inflicted to them by the investigators.

We were surprised to hear, during the reporting period, that some persons have been slapped and beaten by the security services although they had already confessed their crime. In this case, the mistreatments did not have the purpose of extracting confessions but were used as a punishment for the crime imputed to the person by the security services, denying the role of the Justice system, which is the only relevant institution for punishing a crime.



Dessin: George ALAM

### ✓ **Suspension/ Balanco**

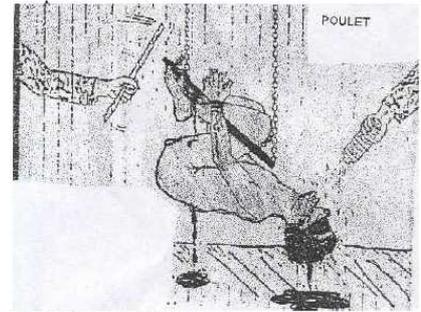
Persons arrested in 2011 and 2012 continued to complain of being subjected to the torture method called “Balanco” which stands for hanging the person from the ceiling with the hands handcuffed in the back.

### ✓ **Electric shocks**

Others complained of having been subjected to electric shocks during the investigation by the Lebanese security forces in order to oblige them to confess crimes, or to provide additional information regarding possible accomplice in the crime.

✓ **Farrouj**

Some detainees complained of having been subjected to the torture method called “Farrouj” which happened during the investigation by the Lebanese security forces in order to oblige them to confess crimes.



Dessin: George ALAM

✓ **Beatings with objects / until loss of conscience**

Persons interviewed during the course of the reporting period reported having been beaten during investigation with the butt of a pistol/belts or sticks, or having been slapped and kicked until losing conscience.

## **B. Psychological torture**

✓ **Prolonged administrative detention**

Prolonged administrative detention in comparison with the definition of torture enshrined in the Convention is indeed a method of torture. During 2011 and 2012, migrants and asylum seekers continued to be kept for weeks or months in “administrative detention”, pending their repatriation to their country of origin or regularization in Lebanon. The situation of UNHCR recognized refugees, who can’t return to their country of origin, and sometimes can’t be released in Lebanon because no resettlement prospect exists for them, is even worse.

✓ **Underground detention deemed equivalent to torture<sup>xxxiii</sup>**

The conditions of detention in an underground facility in comparison with the definition of torture enshrined in the Convention show that it is also a method of torture.

There are at least two official underground prisons in Lebanon; one is located in the basement of the Ministry of National Defense in Yarze, the other one in the basement of the Internal Security Forces headquarters in Ashrafieh<sup>xxxiv</sup>. People arrested on security charges (terrorism, espionage) are regularly detained there.

The General Security retention center, located under the Elias Hraoui Bridge in Beirut in the Adlieh area, is also a detention place described as “temporary” by the Ministry of Interior. Here inmates are kept for several weeks to several months, illegal aliens in Lebanon, pending their regularization or deportation.<sup>xxxv</sup>

Several underground prisons would be illegally used by some militias, to detain some persons. It is impossible to obtain any information on the type of inmates, their number or the fate awaiting them.

### *C. Serious ill-treatments*

Vulnerable inmates are at risk of abuses in the Lebanese prisons, mainly on behalf of other detainees and prisoners.

#### ✓ **Medical conditions**

During the course of the reporting period, CLDH dealt with five inmates presenting serious medical conditions, including neurological degeneration, severe asthma, gangrene, and AIDS. Instead of benefitting of adequate care and housing condition, they were subjected to discrimination (particularly AIDS patients) and harmful environment putting their health at high risk of deterioration if not assisted immediately.

Also, persons who are not able to walk are kept in the Lebanese prisons that are not adequately equipped for their condition:

1. There are no lifts in the prisons and the inmates have to be carried by others on the stairs from and to their cells for any activity, which puts their safety at risk.
2. The prisons are overcrowded and unhealthy and the physically handicapped inmates, especially when they have a urinary catheter or any other invasive equipments are at high risk of infection and complication.
3. When a person has become handicapped while in detention, his/her dangerous nature for the society should be reconsidered.

Therefore, the handicapped inmates should be considered as priorities in terms of vulnerability.

One of the inmates CLDH assisted to be released had totally lost his mobility and died two days after his release.

Inmates with mental handicap should also be considered as particularly vulnerable persons because of the surrounding violence in the Lebanese prisons. During the reporting period, CLDH team dealt with six mentally handicapped inmates who were at high risk of ill treatment on behalf of other detainees/prisoners and unable to defend themselves because of their condition.

#### ✓ **Foreigners**

Since other prisoners depend a lot on the food, hygiene products and clothes brought by their families, foreign inmates are sometimes enslaved by other prisoners and detainees if they don't have anyone to support them financially and materially. They are asked to clean and serve others to gain access to some rights, and often occupy the worst places of the prison such as in front of the bathroom's door.

## Who is responsible?

The executioners remained the same in 2011 and 2012 as in our previous report. The practice of torture in Lebanon is generalized and still considered as a valid method of investigation and punishment in contradiction with the national law and international commitments of the country.

Torture is a common practice, if not encouraged, at least accepted by the Lebanese Justice system. Most of the persons who had been arrested and subjected to torture in 2011 and 2012 have complained to the investigating judge, and the latter did not take any action, neither to cancel the confessions nor to open an investigation into the allegations.

At the security services levels, the same type and number of complaints were raised by the persons arrested in 2011 and 2012 as in the previous documented years. The security services did not do anything to prevent torture and continued to resort to this practice whenever they needed to get confessions or information from suspects, neglecting their role of material investigation.

To our knowledge, no investigation was opened on allegations of torture.

At the beginning of 2013, CLDH raised the case of a foreign domestic employee who had allegedly been severely tortured by a soldier who was a member of the employing family. He is alleged to have taken a female domestic worker to a house in the countryside accompanied by other individuals, and proceeded to hang the young girl upside down by her feet in the bathroom using handcuffs. He is also alleged to have subjected her to electric shocks during most of the night, as well as inflicting burns using a red hot knife, in order to force her to incriminate herself and admit guilt of a theft.

The answer of the army that came a few days after the publication of CLDH press release was not tackling the issue of torture, but only saying that the employee had been found guilty of theft. As if the accusation of theft was justifying the use of torture.

As long as the perpetrators remain unpunished, torture will continue in Lebanon.

## Can we denounce torture in Lebanon?

### ✓ Intimidations against Al Karama representative in Beirut by the military justice

Mr. Saed El Din Chatila, a Human Rights activist with Al Karama (international NGO) was summoned through a phone call, on July 22, 2011 to appear before the Lebanese Army Intelligence bureau in Beirut. He was interrogated on July 25 during 7 hours by the Lebanese Army intelligence. The questions focused on two issues:

1- Press releases issued by Al Karama organization regarding allegations of torture committed by the Lebanese Army.

2- The nature of his relationship with Al Karama organization based in Geneva.

He was referred to the Military Police where he was questioned on the same issues. Following several calls made by human rights defenders and human rights organizations; Saed el Din Chatila was released on July 25, 2011 upon declaration of Intended Place of Residence issued by Military Judge Sakr Sakr with the following charges:

1- Defamation: publishing information affecting the Lebanese Army reputation

2- Giving false information

On the morning of July 26, 2011 a Military Police patrol was sent to his house and office calling him again for further investigation.

On February 3, 2012 the charges were finally dropped by the military investigating judge.

Al Karama organization published the following statement:

Today, Saadeddine Shatila, Alkarama's representative in Lebanon can return to his work assisting victims of human rights violations and lobbying for the authorities to respect their Human Rights obligations. Mr Shatila, who was being investigated by an investigative judge of the Military Court for "publishing information harmful to the image of the Lebanese military" in what was clearly an attempt to intimidate a human rights defender, was informed today that all investigations against him have been closed and that no charges will be brought against him.

In mid-February 2012, the first investigative judge of the Military Court, Riad Abou Ghida, issued a decision closing the investigation against Mr Shatila. This decision was confirmed last week by the Government Commissioner to the Military Court, Judge Saqr Saqr.

"Whilst welcoming the end of this investigation, we remain concerned at the fact that Mr Shatila is only one of many human rights defenders suffering harassment for their essential work" said Rachid Mesli, Director of Alkarama's Legal Department. The case against the Centre Libanais des Droits de l'Homme (CLDH), human rights activist Ali Akil Khalil, and pressure laid on the Palestinian Human Rights Organisation in recent years remain blatant examples of intimidation of individuals working to improve the human rights situation in Lebanon. Alkarama will continue to closely monitor the situation of human rights defenders in Lebanon, and will keep the UN human rights protection mechanisms informed of these situations.

✓ **CLDH representatives still sued for the previous report on arbitrary detention and torture**

An investigation opened on the basis of a complaint filed by Amal Movement against CLDH, following the publication on February 10, 2011 of the report entitled *Arbitrary Detention and Torture: the bitter reality of Lebanon* continued in 2012 by investigating Judge Jean Fernaini at Baabda Palace of Justice.

The above-mentioned report contains more than 60 pages outlining patterns of arbitrary detention and torture in Lebanon, based on statistical data, testimonies and interviews, and it is tackling the alleged practices of most of the Lebanese security services dealing with arrests. The Amal Movement seems to have initiated its lawsuit against CLDH on the basis of 4 sentences in the report. CLDH states that it gathered testimonies from arrests carried out by Amal Movement and in some of these cases serious allegations of torture during investigation were revealed (page 25). While explaining in its conclusions that it was not possible to evaluate the frequency of these torture allegations specifically (page 29).

CLDH representatives were investigated by the police and then by Judge Jean Fernaini on several occasions during the reporting period. Amal Movement, headed by the Speaker of the Parliament Nabih Berri, considers that the said report contains defamatory information and incitation to sectarian strife.

## Conclusions / Analysis

To put an end to the violations of human rights in Lebanon is a matter of will, not resources. Without any will, crimes committed by the State against human beings will never end.

The country is endowed with high-level intellectuals and academics, material resources, allowing the description of the country as “reasonably developed”. In addition, the country benefits from an exceptional international political and financial support. Furthermore, since 2005, the Lebanese elect their representatives in quite a serene and democratic environment.

Only the WILL for reform is lacking.

### **Lack of social will**

The Lebanese people seem to ignore that they are endowed with rights. Rights that are enshrined in the Constitution of the country, in its domestic law and international commitments, and that these rights are universal: everyone living in this country, regardless of its nationality, its community belonging, wealthy or poor, well connected or isolated has the same right.

### **Inertia of the State**

Political and State officials are also citizens, who have the duty to implement reforms based on their rights and the citizens’ rights.

It is appalling to notice the condition of the offices of the police, the Palace of Justice, the central prison – these are only few examples - that are rather antiquated, but specially and above all appallingly filthy, with a nonchalant ambient atmosphere detrimental to both those working there, and the judicial defenders.

What prevents State agents, as citizens, and everybody at his/her own level, to act in the common interest? One of the most irritable arguments regularly heard from State agents when mentioning Human rights in Lebanon is the following: “We could apply this in Sweden, not in Lebanon”. Why would the Lebanese not be capable to do as good, or even, not to say better than the Swedish?

This report is dedicated to all person, politician, activist or citizen who is willing to change things. Putting an end to arbitrary detention and torture in Lebanon is easy. Willingness is the key.

## Recommendations

### To the Lebanese Government:

- Establish the National Preventive Mechanism in the shortest delays, in accordance with the OPCAT.
- Urgently submit the initial report to the United Nations Committee against Torture, expected in 2001, and comply with the recommendations of the committee.
- Adhere to article 22 of the Convention against Torture, and recognize the competence of the Human Rights Committee to receive and examine all individual complaints presented by individuals for the violations of their rights set forth in the Convention against Torture.
- Invite the Special Reporters on torture to conduct a fact finding mission in Lebanon.
- Ratify the International Convention on the protection of the rights of all migrant workers and members of their families.
- Order the closing down of all illegal prisons falling under non-state forces.

### To the Lebanese Parliament:

- Amend article 401 of the Penal Code to criminalize all forms of torture and ill-treatment, including psychological torture, and adapt the penalty for the crime of torture, currently three years, to the gravity of the crime.
- Amend the 1962 law regulating the entry and stay of foreigners in Lebanon, so as to exempt asylum seekers and refugees from penalties for being in the country illegally.
- Annul article 534 of the Penal Code to put an end to arrest based on sexual orientation.
- Order the immediate closure of prisons of the Ministry of Defense and the Internal Security Forces headquarters in Ashrafieh, as well as the Adlieh retention center.
- Review the military courts' prerogatives.
- Establish regular visits of the Human rights parliamentary commission to the Lebanese prisons.

### To the Ministry of Interior:

- Amend the General Security procedures regarding the treatment of foreigners and make sure to put an end to the systematic detention of foreigners at the end of their sentence.
- Ensure an effective control over the security services by the means of internal investigations and disciplinary measures every time violations are reported.
- Define the role, in terms of arrest and interrogation, of each service falling under the Ministry of Interior.
- Open a new retention center, in compliance with international norms and standards.
- Ensure the confidentiality of the interviews between incarcerated persons and their lawyer, in compliance with domestic legislation.

- Ensure a better coordination between the personnel of the prisons, the General Security, and UNHCR for a systematic review of the foreigners' situation, and a better implication of the embassies to the requests of incarcerated persons.
- Prohibit the Embassies to meet with their nationals in detention, whenever the latter did seek – or wish to seek – asylum or already obtained refugee status.
- Formally prohibit the arrest and/or detention of refugees and asylum seekers for illegal entry and/or stay in the country.

#### **To the Ministry of Justice**

- Conduct an in depth reform of the legal aid.
- Revise all unfair trials.
- Systematically open an investigation into credible allegations of acts of torture.
- Systematically cancel all preliminary investigations during which credible allegations of acts of torture occurred.
- Prosecute and sentence all alleged torture perpetrators.
- Ensure the presence of a lawyer throughout the instruction and during the trial, including for foreigners, who in addition must have an interpreter.

## End notes

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<sup>i</sup> Article 9.1 International Covenant on Civil and Political Rights - Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.

<sup>ii</sup> Human Rights Committee, General comment 8, Article 9, Compilation of General Comments and General Recommendations adopted by Human Rights Treaty bodies, U.N. Doc. HRI\GEN\1\Rev.1 (1994).  
Available at : <http://www1.umn.edu/humanrts/gencomm/hrcom8.htm>

<sup>iii</sup> Article 406- (...) the convicted is released on the last day of his sentence.

<sup>iv</sup> Article 58 of the internal rules of prisons, Decree n°1430, February 11, 1949 and amendments.

<sup>v</sup> Article 205 of the Penal Code – If multiple felonies or misdemeanors are found to have been committed, a penalty shall be imposed for each offence and only the severest penalty shall be enforced. The penalties imposed may, however, be consecutive. However, the sum of fixed-term penalties shall not exceed the maximum penalty prescribed for the most serious offence by more than one half. If no ruling has been issued on whether the penalties imposed should run concurrently or consecutively, the matter shall be referred to the Judge for a decision.

<sup>vi</sup> Article 7 Universal Declaration of Human Rights – All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this declaration and against any incitement to such discrimination.

<sup>vii</sup> Article 13 Universal Declaration of Human Rights - 1. Everyone has the right to freedom of movement and residence within the borders of each State. 2. Everyone has the right to leave any country, including his own, and to return to his country.

<sup>viii</sup> Article 14 Universal Declaration of Human Rights –1. Everyone has the right to seek and to enjoy in other countries asylum from persecution. 2. This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

<sup>ix</sup> Article 18 Universal Declaration of Human Rights - Everyone has the right to freedom of thought, conscious, and religion ; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance..

<sup>x</sup> Article 19 Universal Declaration of Human Rights – Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions, without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

<sup>xi</sup> Article 20 Universal Declaration of Human Rights - 1. Everyone has the right to peaceful assembly and association. 2. No one may be compelled to belong to an association.

<sup>xii</sup> Article 21 Universal Declaration of Human Rights - 1. Everyone has the right to take part in the government of his country, directly or through freely chosen representatives. 2. Everyone has the right of equal access to public service in his country. 3. The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

<sup>xiii</sup> Article 12 International Covenant on Civil and Political rights – 1. Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence. 2. Everyone shall be free to leave any country, including his own. 3. The above-mentioned rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order, public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant. 4. No one shall be arbitrarily deprived of the right to enter his own country.

<sup>xiv</sup> Article 18 International Covenant on Civil and Political rights - 1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.2. No one

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shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice. 3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others. 4. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

<sup>xv</sup> Article 19 International Covenant on Civil and Political Rights - 1. Everyone shall have the right to hold opinions without interference. 2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice. 3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary: (a) For respect of the rights or reputations of others; (b) For the protection of national security or of public order (ordre public), or of public health or morals.

<sup>xvi</sup> Article 21 International Covenant on Civil and Political rights - The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.

<sup>xvii</sup> Article 22 International Covenant on Civil and Political rights - 1. Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests. 2. No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on members of the armed forces and of the police in their exercise of this right. 3. Nothing in this article shall authorize States Parties to the International Labor Organization Convention of 1948 concerning Freedom of Association and Protection of the Right to Organize to take legislative measures which would prejudice, or to apply the law in such a manner as to prejudice, the guarantees provided for in that Convention.

<sup>xviii</sup> Article 25 International Covenant on Civil and Political rights - Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions: (a) To take part in the conduct of public affairs, directly or through freely chosen representatives; (b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors; (c) To have access, on general terms of equality, to public service in his country.

<sup>xix</sup> Article 26 International Covenant on Civil and Political rights - All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

<sup>xx</sup> Article 27 International Covenant on Civil and Political rights - In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language.

<sup>xxi</sup> General Comment 15, the position of aliens under the Covenant (twenty-seventh session, 1986), Available at: <http://www.unhchr.ch/tbs/doc.nsf/0/bc561aa81bc5d86ec12563ed004aaa1b?Opendocument>

<sup>xxii</sup> <http://dailystar.com.lb/News/Local-News/2012/Aug-17/184923-two-lebanese-detained-on-suspicion-of-homosexuality.ashx#ixzz2QQ8KtxTW>

<sup>xxiii</sup> Article 11.1 Universal Declaration of human rights - 1. Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defense.

<sup>xxiv</sup> The Lebanese Constitution stipulates in its Preamble: *"B) Lebanon is (...) a founding and active member of the United Nations Organization, and abides by its covenants and by the Universal Declaration of Human Rights. The Government shall embody these principles in all fields and areas without exception."*

<sup>xxv</sup> Concluding observations of the Human Rights Committee: Lebanon. 04/01/1997. CCPR/C/79/Add.78. (Concluding Observations/Comments) *"14. The Committee expresses concern about the broad scope of the jurisdiction of military courts in Lebanon,*

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*especially its extension beyond disciplinary matters and its application to civilians. It is also concerned about the procedures followed by these military courts, as well as the lack of supervision of the military courts' procedures and verdicts by the ordinary courts. The State party should review the jurisdiction of the military courts and transfer the competence of military courts, in all trials concerning civilians and in all cases concerning the violation of human rights by members of the military, to the ordinary courts."*

Available at : <http://www.unhcr.ch/tbs/doc.nsf/0/4ae80feca81d794e8025648900322921?Opendocument>

<sup>xxvi</sup> The case of Nour Merheb

« Nour Merheb is a Lebanese citizen, civil rights advocate and a Nonviolent Human Rights defender. Upon going out of his office on 07/02/2008, Nour was assaulted by a person named "J.Z." because of a dispute that arose in the building where he (Nour) worked. Nour did his best to defend himself against the aggressor, but he got severely beaten. His injuries required him first to go to a medical examiner and then he directly headed to file a complaint before the competent authority- the military police- after he found out that "J.Z." was in the military.

In the investigation conducted by the military police, the aggressor "J.Z." claimed that Nour held out a knife against him, what lead him to assault him in self defense. Nour refuted this allegation deeming it a false accusation- knowing that no proof was brought forward to support the allegation of "J.Z.". The military police ran an investigation on the subject and held officer "J.Z." responsible, as mentioned in the following report made by adjutant Ahmad Ismail from the military police:

"It was concluded from the whole investigation that the officer "J.Z." stepped into a dispute he was not concerned in, especially that he is a member in the committee of the building where he resides and he came to blows with the so-called Merheb. The investigation did not find that the latter held out a knife against him – Officer "J.Z." number: xxxxx, from the General Inspectorate at the Ministry of Defense, shall hold the following responsibility: – on 07/02/2008, in the area of New Rawda, he came to blows with a civilian, not to mention that he is also a member of the building committee and he interfered in its affairs without any right."

In contrary to the principles and rules of justice, the forces of power and oppression played their usual game and instead of prosecuting the officer, the army command, chiefs of staff and discipline and military justice, represented by Lieutenant Colonel Said, and after going back to the military prosecution office, decided to collect the hearing fees and the compensation for the suspension of officer "J.Z.". The decision was put into effect on 07/07/2008 and Nour was ordered to pay the amount of 2,468,00 LBP.

Nour was surprised upon hearing the verdict and objected to it for he was the victim and not the defendant. He did not accept to pay, and was therefore accused, without any evidence, of threatening the officer with a knife and of disabling him for six weeks because of a broken finger. Nour was accused according to articles 557 and 573 of the penal law and 73 of the weapons law, with accusations punishable with imprisonment for up to three years. Moreover, Nour was referred to the permanent military court without appearing before an examining magistrate and without the submission of a list of accusations that presents the evidence.

Nour attended the military court hearings, testified and was subject to numerous abuses and violations. However, he finally managed to prove that "J.Z." did not see a knife in his hand, through the confession of "J.Z." himself, who reiterated this statement several times since the first court hearing. However, his statement was not recorded in the minutes of the hearing despite Nour's persistent requests for it to be recorded until the hearing dated 01/22/2010, after Nour insisted before the judge. Yet, as it later turned out, the confession recorded in the minutes differed from the confession expressed by the officer and was somewhat ambiguous. In spite of this, the said statement is still considered a clear confession and must be considered sufficient evidence before the court to prove the contradiction in the officer's statements in this concern. It states the exact following: "The defendant "J.Z." was questioned and he added saying: "I did not see a knife in Nour's hand. However, after I went home, my brother-in-law told me he saw him pick his knife up from the ground and put it on his waist." After he succeeded in making officer "J.Z." himself confess that there was no knife, and since he did not trust the military court to be impartial, knowledgeable, capable and honest, given the injustice he suffered by being prosecuted without due reasons and treated as guilty while the officer was treated in a preferential way throughout the brief proceedings; and considering that the judge prevented Nour from talking and defending himself during the hearings at numerous occasions; and finally that he proved his innocence by the confession of officer "J.Z." himself (while originally, guilt should be proven and not innocence!!!); based on the aforementioned, Nour considers that the military court is unfair and illegitimate, and does not respect his right as a human being and as a Lebanese citizen nor his right to a fair and impartial trial that is provided for in the Constitution and in international covenants. Accordingly, he has refused to cooperate with the military court as from 05/28/2010, and did not attend the hearing that was supposed to be held at that date, although he risked that an arrest warrant be issued against him and he be incarcerated. (...) Nour, who is innocent until the opposite is proved, and who was proven innocent by virtue of the investigation that was conducted by the military police and finally by the confession of the aggressor himself, endured what every other Lebanese citizen might endure (...) Therefore, Nour considers based on what his conscience compels him to do, that it is his duty as a human being and as a Lebanese citizen to stop cooperating with the military court and to declare it illegitimate, according to the Lebanese Constitution, the international covenants and the Universal Declaration of Human Rights, and to refuse to cooperate with injustice, oppression, evil and abuse of power.

Nour Merheb was sentenced on September 1, 2010 to two months of imprisonment and the payment of a fine of 100 000 Lebanese pounds.

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On his website, he stated : “Nour refuses to submit to the military court orders that he deems illegitimate. He refuses to cooperate or even defend himself before it and he demands the Lebanese State and the Parliament to abolish the competences of the military courts immediately. Nour did not run away. He is present at his house in Dbayeh and he will conduct a series of activities in the coming days to mobilize the forces required to demand the abolishment of military courts in Lebanon, while awaiting his arrest, which he will confront with nonviolent noncooperation methods”.

<sup>xxvii</sup> Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Adopted and opened for signature, ratification and accession by General Assembly resolution 39/46 of 10 December 1984, entry into force 26 June 1987, in accordance with article 27 (1) Available at the following address: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CAT.aspx> The Convention was ratified by Lebanon on November 4, 2000

<sup>xxviii</sup> Article 7 of the International Covenant on civil and political rights – No one shall be subjected to torture, inhuman or degrading treatment or punishment. Article 10 of the International Covenant on civil and political rights – All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.

<sup>xxix</sup> Article 5 of the Universal Declaration of Human Rights – No one shall be subjected to torture or to cruel, inhumane or degrading treatment or punishment.

<sup>xxx</sup> ALEF, *Lebanon : The Painful Whereabouts of Detention*, February 2008

<sup>xxxi</sup> Out of 67 interviews conducted in 2012 and 2013.

<sup>xxxii</sup> The interviewees arrested in 2011 and 2012 were 40.

<sup>xxxiii</sup> The Special Rapporteur on torture underlines that inadequate conditions of detention amounts a mean of torture and other cruel, inhuman or degrading treatment, *Civil and Political rights, including the questions of torture and detention, Torture and other cruel, inhuman or degrading treatment or punishment*, December 23, 2003, E/CN.4/2004/56, §41

<sup>xxxiv</sup> This prison was formalized by decree N° 15119 on September 10, 2005

<sup>xxxv</sup> On the conditions of detention at the Retention Center and Detention Center of the Ministry of Defense, See CLDH report, *Lebanese Prisons, Humanitarian and Legal concerns*, 2010, pp. 42-47.  
Available at: [http://www.solida.org/Rapports%20et%20communiqués/Rapports/french/cldh\\_prisons\\_2010\\_fr.pdf](http://www.solida.org/Rapports%20et%20communiqués/Rapports/french/cldh_prisons_2010_fr.pdf)