

## **Lebanon Torture Situation after Legislating law 65/2017**

**“An inception study on the Law aiming at punishing torture”**

July 31, 2019

**THE LEBANESE CENTER FOR HUMAN RIGHTS.**

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**AS PART OF THE REHABILITATION OF VICTIMS OF TORTURE PROJECT**

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## ABOUT CLDH

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

CLDH previously followed up on numerous cases of arbitrary detention and torture in Lebanon in coordination with Lebanese and international organizations. In 2007 CLDH opened a Rehabilitation Centre 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.

Since 2012, CLDH has administered a legal aid program entitled “Legal Assistance to Vulnerable Inmates in the Lebanese Prisons”. The program aims at reducing the prisons’ overcrowding and at guaranteeing more Justice for vulnerable people (foreigners, low income Lebanese) by giving them access to appropriate Legal aid. It also consists of several lawyers’ assistance to vulnerable migrants, refugees, asylum seekers and Lebanese through legal consultations and before courts, institutions and security services. The average number of beneficiaries in this program is equivalent to 645 per year, as 1804 cases have benefited from the program between 2016 and 2019.

CLDH is a founding member of the Euro-Mediterranean Federation against Enforced Disappearance (FEMED), a member of the Euro-Med Rights Network (EuromedRights), a

member of the SOS Torture Network of the World Organization against Torture (OMCT), and of the International Federation of Human Rights Leagues (FIDH).

# ACRONYMS

Arab Charter	League of Arab States, Arab Charter on Human Rights, 15 September 1994, available at: <a href="https://www.refworld.org/docid/3ae6b38540.html">https://www.refworld.org/docid/3ae6b38540.html</a> [accessed 20 July 2019].
CAT	UN General Assembly, Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 10 December 1984, United Nations, Treaty Series, vol. 1465, p.85, available at: <a href="https://www.refworld.org/docid/3ae6b3a94.html">https://www.refworld.org/docid/3ae6b3a94.html</a> [accessed 20 July 2019]. Ratified without reservation by Lebanon on 5 October 2000.
CEDAW	UN General Assembly, Convention on the Elimination of All Forms of Discrimination Against Women, 18 December 1979, United Nations, Treaty Series, vol. 1249, p.13, available at: <a href="https://www.refworld.org/docid/3ae6b3970.html">https://www.refworld.org/docid/3ae6b3970.html</a> [accessed 20 July 2019]. Ratified by Lebanon on 16 April 1997.
CERD	UN General Assembly, Convention on the Elimination of All Forms of Racial Discrimination, 21 December 1965, United Nations, Treaty Series, vol. 660, p.195, available at: <a href="https://www.refworld.org/docid/3ae6b3940.html">https://www.refworld.org/docid/3ae6b3940.html</a> [accessed 20 July 2019]. Ratified by Lebanon on 12 November 1971.
CLDH	Lebanese Centre for Human Rights
FEMED	Euro-Mediterranean Federation against Enforced disappearance
FIDH	International Federation of Human Rights Leagues
GSO	Office of the Lebanese General Security
ICCPR	UN General Assembly, International Covenant on Civil and Political Rights, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171, available at: <a href="https://www.refworld.org/docid/3ae6b3aa0.html">https://www.refworld.org/docid/3ae6b3aa0.html</a> [accessed 20 July 2019]. Ratified by Lebanon on 3 November 1972.
ICRC	International Committee of the Red Cross
ICRMW	UN General Assembly, Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 18 December 1990, A/RES/45/158, available at: <a href="https://www.refworld.org/docid/3ae6b3980.html">https://www.refworld.org/docid/3ae6b3980.html</a> [accessed 20 July 2019]. Lebanon has not yet signed nor ratified.
IRCT	International Rehabilitation Council for Torture
ISF	Lebanese Internal Security Forces
Law 65	Law No. 65 on Punishment of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted 26 October 2017.
NHRI	National Human Rights Institute
NGOs	Non-governmental organizations
No.	Number
NPM	National Preventive Mechanism
OHCHR	Office of the High Commissioner for Human Rights
OMCT	SOS Torture Network of the World Organization against Torture
OPCAT	UN General Assembly, Optional Protocol to the Convention Against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment, 9 January

2003, A/RES/57/199, available at:  
<https://www.refworld.org/docid/3de6490b9.html> [accessed 20 July 2019].  
Ratified by Lebanon on 22 December 2008.

OSCE	Organization for Security and Co-operation in Europe
PTSD	Post-traumatic stress disorder
Euromedrights	Euro-Med Rights Network
SOLIDA	Support for Lebanese Detained Arbitrarily
UNHCR	The Office of the United Nations High Commissioner for Refugees
VOT	Victim of torture
UDHR	Universal Declaration of Human Rights

## **EXECUTIVE SUMMARY**

The need to combat torture and ill-treatment lies at the heart of several international conventions, treaties, and declarations that Lebanon has ratified and referred to them in the introduction of the Lebanese constitution, therefore is obliged to uphold under international law. Moreover, the prohibition of torture is firmly embedded in customary international law. All the flaws in the procedures in force breed an atmosphere of permissiveness and impunity favoring the practice of torture. Yet authorities have failed to properly investigate allegations of torture and ill-treatment by security services, and the prohibition of torture remains elusive.

CLDH has been documenting torture in Lebanon since 1996 and is one of few independent local organizations establishing regular statistics about the practice of torture in Lebanon. This report is based on 92 questionnaire of persons detained in Lebanese detention facilities, as well as legal analysis and information given by specialists in the field of torture rehabilitation. This report focuses on two main points. Firstly, it briefly examines the international and domestic legal framework in place to combat torture and other ill-treatment. It covers and discuss the adoption and implementation of Law 65. Secondly, with the help of testimonies collected by CLDH's team, it questions the systematic use of torture by security officials, more particularly during the preliminary investigations.



# **1 SECTION ONE: OBJECTIVES AND BACKGROUND**

## **1.1. OBJECTIVES OF THE PROJECT**

In 2007, with the aim of providing care and assistance to victims of torture, facilitate their rehabilitation and social reintegration, CLDH established “Centre Nassim for the Rehabilitation of the Victims of Torture”. The Centre has been providing multi-disciplinary assistance, including psychotherapy, physiotherapy, legal assistance, social assistance, and financial assistance to over 100 victims of torture on a yearly period. With strict rules for admission - based on the Istanbul Protocol, CAT and OPCAT – and highly qualified staff, Centre Nassim is one of the very few centers that provide holistic support to victims of torture and their families in Lebanon. It is part of the International Rehabilitation Council for Torture Victims (IRCT) network of supported organizations, part of the World Organization Against Torture (OMCT) and other networks.

In addition to the support provided by Centre Nassim to victims of torture, CLDH is regularly advocating for legal improvement, engaging various stakeholders (lawyers, judges, human rights activists, prosecutors, etc.) in specialized conferences, seminars and roundtables, conducting researches, raising awareness on the issue of torture in Lebanon, etc.

In July 2018, CLDH and with the support of The Norwegian Embassy in Lebanon implemented a project titled; Centre Nassim: Providing Rehabilitation Services to Victims of Torture part of the Nassim rehabilitation Program. This project aims to facilitate the rehabilitation and social reintegration of victims of torture living in Lebanon, and promote human rights and address human rights violations.

## **1.2. OBJECTIVES TO THE STUDY**

The use of torture in detention facilities, together with the arbitrary detention of inmates in Lebanese prisons, the lack of transparency and independency of the judicial system and the poor conditions of detention are regularly brought to the attention of CLDH during its work on individual cases. Through previous publications, CLDH has been monitoring the situation on the issue of detention<sup>1</sup> in Lebanon. For this reason, CLDH decided to update the national situation on the issue of detention.

The overall purpose of the study is to gather quantitative data through sampled surveys from 92 inmates in 7 Lebanese prisons and detention centers about the use of torture in Lebanese detention centers and the proper implementation of law (65) which criminalizes torture by all means. The main objective of this study is to carry out a Preliminary evaluation of the practice of arrest and investigation with aim of strengthening mechanisms for the prevention of and accountability for torture. The expected result of the preliminary evaluation is to identifying the progress, obstacles and implementation update of the law 65 if any, which will be shared with relevant stakeholders including member of the national prevention mechanism of torture, deputes, ministers and relevant officers to collect recommendation and feedback.

## **1.3. LEGAL FRAMEWORK REGARDING THE PROHIBITION OF TORTURE**

This chapter explores the wide range of sources that participate in the *corpus* of anti-torture law. It seems relevant to primarily conduct a brief analysis of the several treaties, laws, and protocols that have been ratified to address the prohibition of torture against all individuals.

## **1.4. UNITED NATIONS & INTERNATIONAL LEGAL FRAMEWORK**

The Universal Declaration of Human Rights (UDHR) is a milestone document in the history of human rights, representatives with different legal and cultural backgrounds from all regions of the world gathered to draft the declaration after the end of World War II. , Lebanon was also

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<sup>1</sup> CLDH, Arbitrary Detention and Torture in Lebanon, 2013 [www.rightsobserver.org/publication](http://www.rightsobserver.org/publication)

CLDH, Women Behind Bars - Arbitrary Detention and Torture of Women in Lebanon, 2015 [www.rightsobserver.org/publication](http://www.rightsobserver.org/publication)

part of this achievement, by drafting the process. The Ambassador Charles Habib Malek, one of the drafters of The Universal Declaration when presenting the draft resolution of the proposed text to the General Assembly in 1948 said “Human rights must define the nature and essence of human beings. They must not be accidental. They certainly must not be changing with time and place”

The Declaration was proclaimed by the United Nations General Assembly in Paris on 10 December 1948 and since then; the Universal Declaration has been enshrined in the preamble of the Lebanese Constitution rendering its principles constitutionally compulsory with supremacy over the national legislation. The article 7 of the UDHR - 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. The Article 5 of the UDHR - No one shall be subjected to torture or to cruel, inhumane, or degrading treatment or punishment.

The UDHR also says that people have the right to “an effective remedy” if their rights are violated.

Within the UN legal framework, torture and other ill-treatment are firmly prohibited under a number of international treaties, which are legally binding on those states which have ratified them.<sup>2</sup>

The most comprehensive documents include:

1. The International Covenant on Civil and Political Rights (ICCPR); and
2. The Convention against Torture (CAT) and its Optional Protocol (OPCAT)

At the international level, the HRC and Committee against Torture interpret State obligations under the ICCPR and the CAT, respectively. In case the State in question has recognized their competence to do so, these bodies may consider individual complaints against violations under the convention.<sup>3</sup>

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<sup>2</sup> According to Article 34 Vienna Convention, international human rights law defines the limits of a State’s power over individuals, and imposes positive obligations owed by the State to individuals. Treaties by themselves bind only states that have ratified them. A treaty does not create either obligations or rights for a third State without its consent”. However, the Vienna Convention affirms in Article 38 that a non-party to a treaty containing a particular norm can still be bound by a similar norm found in customary international law.

<sup>3</sup> OHCHR Fact Sheet No. 15, p. 14.

The ICCPR was the first legal act in the field of human rights that explicitly incorporated a prohibition of torture and other ill-treatments, which aims to protect both the dignity and the physical and mental integrity of the individual.<sup>4</sup> The two particularly relevant provisions of the ICCPR are:

**Article 7 ICCPR** – “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.”

**Article 10 (1) ICCPR** – “All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.”

The CAT specifically defines elements of torture, from the very definition of torture through its specific elements.<sup>5</sup> For the purposes of describing specific measures against torture, the CAT included a definition of torture:

**Article 1 (1) CAT** – “For the purposes of this Convention, 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.”

Three essential factors emerge from the above-mentioned provision in order for an act to qualify as torture:

- (1) The infliction of severe mental or physical pain or suffering**
- (2) For a specific purpose, such as gaining information, punishment or intimidation**
- (3) By or with the consent or acquiescence of the State authorities**

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<sup>4</sup> 1992 UN General Comment No. 20, §2; SURLAN T., p. 6.

<sup>5</sup> SURLAN T., p. 9.

## 1.5. LEBANESE LEGAL FRAMEWORK

As for Lebanon, the article 8 in the constitution stated that “The right to personal liberty shall be guaranteed and protected by law. No one may be arrested, imprisoned or detained except as provided for by law and no offence or penalty may be established other than by law.”

This provision enshrines the principle of protection of personal liberty which plainly includes the enshrinement and protection of a person’s right not to be subjected to any act of torture, especially as the torture of an individual constitutes at the same time an infringement of his personal liberty.<sup>6</sup> Moreover, the need to combat torture and ill-treatment lies at the heart of above-mentioned international instruments and treaties that Lebanon has ratified, notably the ICCPR, the CAT, and its OPCAT and is accordingly obliged to uphold under international law.

**\*Paragraphe (b) Preamble of Lebanese Constitution** – “[...] [Lebanon] is a founding and active member of the League of Arab States and is bound by its charter. It is also a founding and active member of the United Nations Organization and abides by its covenants and by the Universal Declaration of Human Rights. The State shall embody these principles in all fields and areas without exception.”

The ICCPR, the UDHR and the Arab Charter<sup>7</sup> constitute an integral part of the Lebanese legal system and have the status of constitutional value. In other words, they have equivalent status to the provisions of the Convention. The CAT and its OPCAT, as for other international human rights instruments ratified by Lebanon, do not enjoy de jure constitutional status, but pursuant to Article 2 of the Lebanese Code of Civil Procedure, it has primacy over the provisions of ordinary law and administrative rules that are inferior to the latter. Put another way, the provisions of the international instruments ratified by Lebanon take precedence over domestic legislation that is inconsistent with those provisions, which may also be directly invoked before the Lebanese courts<sup>8</sup>. In this sense, Lebanon should insure that all rights protected under these instruments are given full implementation in domestic law. It should

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<sup>6</sup> UN Lebanon initial report, §45; 2016 UN Consideration of reports, §63.

<sup>7</sup> Article 13, Arab Charter

<sup>8</sup> UN Lebanon initial report, § 48-50.

also make further efforts to raise awareness about these issues among judges, lawyers, prosecutors and public officials<sup>9</sup>.

After a delay of 15 years, the Lebanese government lastly presented on 9 March 2016 its report on torture to the Committee against Torture<sup>10</sup>. Lebanon's representative justified such delays by stating that:

"The exceptional political, economic, social and security situation experienced in Lebanon over the past 14 years [...] rendered it impossible to fulfill this requirement within the deadline."<sup>11</sup>

The Committee against Torture noted the pervasive nature of torture in Lebanon, including overcrowding in prisons and other places of detention and the difficulties for key institutions to monitor human rights. Complying with the committee, the Lebanese Government was submitted to undertake positive measures regarding these observations.

The main purpose of the CAT was not to achieve an absolutely and overwhelmingly accepted definition of torture, but rather to oblige states-parties to arrange within their national legal systems measures to combat torture, especially within their criminal codes.<sup>12</sup> Accordingly, Lebanon amended the article 401 in the Penal code on 26 October 2017 a law which aims at punishing torture and other cruel, inhuman or degrading treatment or punishment (Law 65). However, in adopting the new legislation, the Lebanese authorities don't follow the recommendations issued in the UN Concluding Observations among others with regard to the definition of the offence, the appropriate punishments, and statutes of limitations for prosecuting torture.<sup>13</sup>

In line with Lebanon's obligations under the OPCAT, the parliament approved on 19 October 2016 a law establishing a National Human Rights Institute (NHRI).<sup>14</sup> The institute is vested with the role of monitoring Lebanon's compliance with international human rights law and

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<sup>9</sup> <https://amel.org/un-human-rights-committee-publishes-findings-on-lebanon/>.

In compliance with the reporting procedure under Article 19 CAT: "The States Parties shall submit to the Committee [...] reports on the measures they have taken to give effect to their undertakings under this Convention, within one year after the entry into force of the Convention for the State Party concerned."

<sup>10</sup> In compliance with the reporting procedure under Article 19 CAT: "The States Parties shall submit to the Committee [...] reports on the measures they have taken to give effect to their undertakings under this Convention, within one year after the entry into force of the Convention for the State Party concerned."

<sup>11</sup> UN Lebanon initial report, §2 : to which the committee against torture considered that it was not a valid justification.

<sup>12</sup> SURLAN T., p. 9.

<sup>13</sup> 2017 UN Concluding Observations, §12-13.

<sup>14</sup> HRW, New Law a Step to End Torture.

drafting periodic human rights reports, advising and advocating with the relevant authorities on the implementation of human rights obligations, increasing public awareness of human rights issues, as well as receiving and investigating individual cases of violations and eventually referring them to the General Prosecution.<sup>15</sup>

The establishing law creates a National Preventive Mechanism against torture (NPM) which has the mandate to oversee the implementation of the Law 65. It also has the commission to carry out regular unannounced visits to all places of deprivation of liberty without prior permission from the authorities, and to carry out interviews with detainees in private, in compliance with the OPCAT. On 7 March 2019, Lebanon's Council of Ministers appointed the five members of the country's NPM.<sup>16</sup> However, to date, the NHRI and NPM are not yet operational as no budget has been allocated.<sup>17</sup>

"Lebanon has taken a positive, if overdue, step toward eradicating the use of torture in the country through appointing the members of the National Preventative Mechanism against torture. Now, the government should allocate a sufficient budget so that the members can get to work."<sup>18</sup>

Law 65 established a range of preventive and punitive measures with a view to complying with its obligations in that regard.

**Article 1 (b) Law 65** – "Anyone who practices torture shall be liable to imprisonment for a term of one to three years if the torture does not result in death or permanent or temporary physical or mental disorder: One to three years in prison for cases that do not result in physical or psychological harm; three to seven years in it leads to temporary disability, harm, or physical or psychological impairment; five to seven years If it leads to temporary disability, harm, or physical or psychological impairment; five to ten years if the harm is permanent; and ten to twenty years if it leads to death. Such penalties of less than five years normally attached to misdemeanors, do not have a deterrent effect, thus fostering a climate of impunity."

It comes as no surprise that, once again, the dispositions adopted do not reflect the CAT's standards and recommendations on appropriate punishments. Committee experts pointed out

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<sup>15</sup> ALKARAMA, NHRI.

<sup>16</sup> ALKARAMA, Lebanon Shadow Report, p. 4.

<sup>17</sup> ALKARAMA, Follow-up to the Committee against Torture, p. 4; AMNESTY INTERNATIONAL, Failure to implement anti-torture law.

<sup>18</sup> Statement made by Lama Fakih, deputy Middle East director at Human Rights Watch, March 2019.

the inadequacy of the sentences, stating that the latter do not commensurate with the gravity of the crimes of torture. It recommended sentences ranging from six to twenty years.<sup>19</sup>

**Article 4 (2) CAT** – “Each State Party shall make these offences punishable by appropriate penalties which take into account their grave nature.”

Moreover, under Article 13 CAT<sup>20</sup>, torture cases should be heard by regular judicial courts, not military courts. While the preamble in Lebanon’s new torture law specifies that torture cases should be heard by regular judicial courts, this is not reflected in its operational text, leaving open the possibility that Lebanon’s military courts will continue to hear some cases.<sup>21</sup>

**\*Paragraphe 5 Preamble Law 65** – “In accordance with the requirements of article 13 CAT, the bill proposes a set of provisions aimed at ensuring the effectiveness of complaints submitted by all those who claim to be subjected to torture and that the competent judicial authorities shall consider such complaints promptly and impartially [...]”

The law fails to adequately address the prosecution of perpetrators since the investigation and prosecution of acts of torture can be vested with military courts. In their follow-up report, the Lebanese authorities states that “all judicial officers from the internal security forces, army and general security fall under this new law.”<sup>22</sup> The procedure for prosecuting members of the security forces remains unclear and contradictory.<sup>23</sup>

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<sup>19</sup> 2017 UN Concluding observations, §13.

<sup>20</sup> 2017 UN Concluding observations,

<sup>21</sup> HRW, Anti-Torture Body Named.

<sup>22</sup> Alkarama, Follow-up to the Committee against Torture, pp. 2-3.

<sup>23</sup> Article 15 Code of Criminal Procedure stipulates that the Public Prosecutor to the Court of Cassation decides whether to refer law enforcement officials – excluding members of the army – to an ordinary or a military court, the Military Code states in its Article 27 that members of the army, ISF and GSO members are to be brought before a military court. Moreover, according to Article 36, they can only be prosecuted upon authorisation from the ISF or GSO or the army’s high command. This impedes the effective prosecution of perpetrators of torture since the military courts lack independence and impartiality.



## **2 SECTION TWO: METHODOLOGY**

### **2.1. DATA COLLECTION METHODOLOGY**

Both qualitative and quantitative methodologies were employed to collect data using participatory approaches which ensured the triangulation and validation of information during the course of data collection and analysis. The data comprised information collected using literature review, key informant interviews, as well as field visits in the detention facilities. Furthermore, questionnaires were administered directly during the survey to beneficiaries, governmental representatives and local NGOs. The documentation work conducted dealt both with the use of torture in the prisons in general and the implementation of Law 65 in the process of investigation.

#### **2.1.1. LITERATURE REVIEW**

Documents related to international human rights laws, as well as documents more specifically focused on the rights of the person incarcerated, were reviewed. Additional methods consisted of reviewing all available reports and studies on Lebanese prison conditions, particularly on the common use of torture in Lebanese detention facilities, as well as on its impact on the mental health of victims, which was identified through database searches on internet and archive of CLDH. Finally, in addition to searching through the databases, relevant sources were also derived from the works cited in each of these articles and reports.

#### **2.1.2. FIELD VISITS**

The CLDH team visited various detention centers during the months of June and July 2019. However, the team was not able to visit all Lebanese prisons due to internal laws and regulations. In terms of documentation tools, three questionnaires (*see* appendices) were designed for this study. Throughout these structured questionnaires a selected sample of inmates were interviewed. CLDH's team conducted 92 key informant interviews with detainees in 7 prisons under ISF control. Places of detention visited will remain unnamed for confidentiality and protection purposes.

## **2.2. LIMITATIONS TO THE STUDY**

The study had some limitations as outlined below:

### **2.2.1. LACK OF COLLABORATION FROM GOVERNMENTAL REPRESENTATIVES**

CLDH team sent by hand official request letters to the General Director of the State Security, General Security – Headquarter in Beirut, and the Chief of The Lebanese Army at the Ministry of Defense. The request letter contained detailed description of CLDH's work and services and the purpose of the study. Within two weeks, The General Director office of the State Security responded positively. They stated that the directory assigned representative of the state security members to conduct the interview and that a meeting will be set. However and despite the many call attempts, as of today, no date was given to CLDH team and no interview has been conducted.

As for the General Security, a member was assigned to conduct the interview and a meeting was set for CLDH team. During the meeting, the officer assigned stated during the interview that the GSO detention centers do not hold detainees for a long period as other detention centers. According to the latter, torture is never implemented in GSO procedures and Law 65 is definitely being implemented nowadays. The questionnaire wasn't filled out by the officer after informing CLDH that he will need to take the time to fill out the answers.

### **ACCESS TO PRISON**

With the collaboration with ISF and the office of the prosecutor, CLDH was able to access ISF prisons to provide protection and legal aid support to more than 900 inmates and detainees per year. However, and due to the reinforcement of security measures, almost all NGOs face difficulties to access Roumieh prison. To enter the prison, the NGOs have to pass every checkpoint, like all visitors. The security check is very abrasive, especially when the visitor is a woman. The police officers control every document with a fine-toothed comb at the arrival, as well as at the exit. On their way out, NGOs members have to pass by an office where a police officer asked them to write down the name of every individual they met and the purpose of the meeting detailing the content of their conversation. For these reasons, CLDH's staff members decided not to conduct the survey with detainees because of fear of repression on detainees.

### **2.2.2. LACK OF PRIVACY**

Specialists were not always granted a private space to conduct the interviews. Other inmates as well as prison staff members remained in the same room and were therefore able to listen to the conversations.

### 3 SECTION THREE: INTERVIEW FINDINGS

*All findings mentioned in the following section are mentioned as collected from inmates, CLDH did not change or amend any data collected.*

#### 3.1. GENDER, NATIONALITIES AND AGE

As the figure shows in Fig.1, out of the 92 inmates interviewed, 55 of them are men and 37 are women. As for the inmates nationalities it included: 43 Lebanese (29 men and 14 women), 31 Syrians (18 men and 13 women), 5 Ethiopian women, 5 Palestinians (3 men and 2 women), 3 Stateless men, 1 man from Bahrain, and 1 woman from Venezuela. As for their ages, it ranged between 18 and 61 years old.

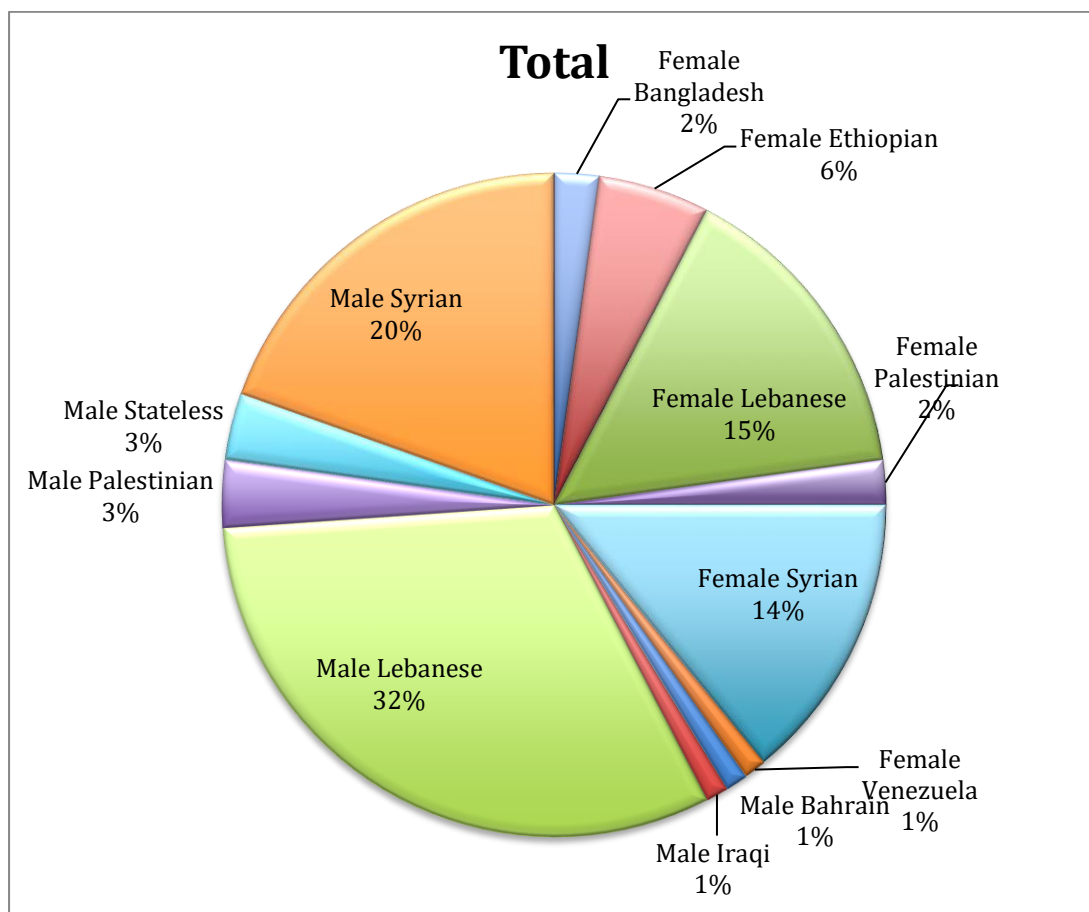
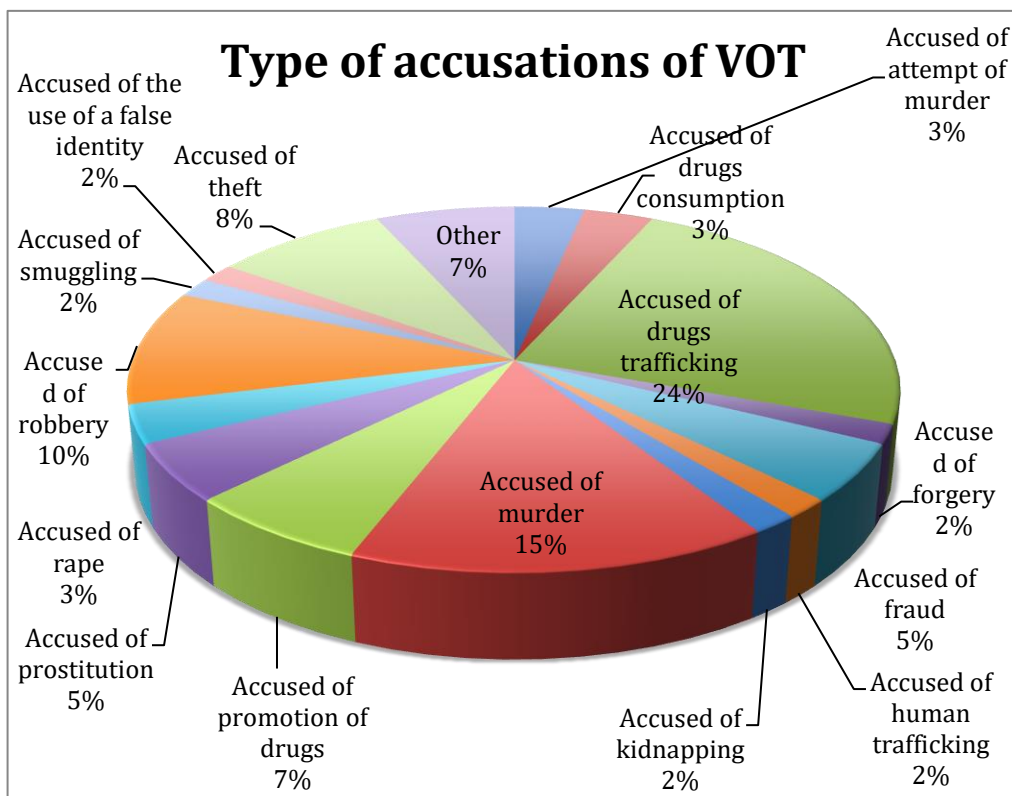


Figure 1 Gender and Nationalities of VoT

### 3.2. VICTIMS OF TORTURE AND THEIR TYPE OF ACCUSATION

59 inmates alleged as Victims of Torture including (Number of Men and Women), with the following type of accusation (Fig.2):

14 inmates Accused of drugs trafficking  
 9 inmates Accused of murder  
 6 inmates Accused of robbery  
 5 inmates Accused of theft  
 4 inmates Accused of promotion of drugs  
 4 inmates accused of other type of crimes  
 3 inmates Accused of prostitution  
 3 inmates Accused of fraud  
 2 inmates Accused of attempt of murder  
 2 inmates Accused of rape  
 2 inmates Accused of drugs consumption  
 1 inmate Accused of forgery  
 1 inmate Accused of human trafficking  
 1 inmate Accused of kidnapping  
 1 inmate Accused of smuggling  
 1 inmate Accused of the use of a false identity

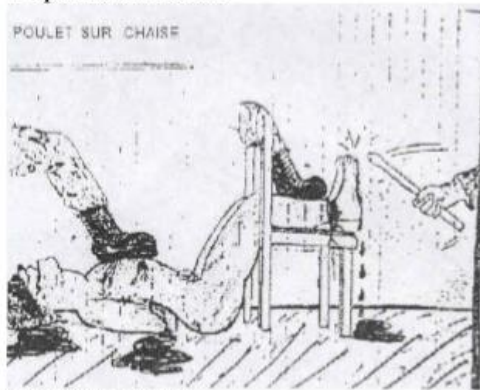


**Figure 2 Type of accusations**

### 3.3. TYPE OF TORTURE

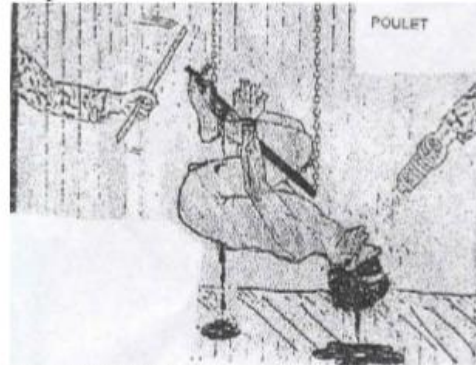
Torture methods stated by the VOT during the interviews can broadly be distinguished between physical and psychological methods. Some of the most common methods of physical torture are beating, electric shocks, food and water deprivation, as well as *balanco*<sup>24</sup> and *farrouj*<sup>25</sup>. It has also been documented that women have been subjected to sexual harassment and gender-based violence. Psychological forms of torture and ill-treatment, which very often have the most long-lasting consequences for victims, commonly include verbal abuses, isolation, threats, humiliation or witnessing the torture of others.

“le poulet sur chaise”



Dessin: George ALAM

“le poulet”



Dessin: George ALAM

<sup>24</sup> *Al-balanco* position consists in hanging the individual by the wrists, which are tied behind the back.

<sup>25</sup> *Al-farrouj* (“the chicken”) is a torture technique in which the victim is suspended by the feet with hands tied together to an iron bar passed under the knees. [http://www.rightsobserver.org/files/SOLIDA\\_Ministry\\_of\\_Defense\\_FR\\_2006.pdf](http://www.rightsobserver.org/files/SOLIDA_Ministry_of_Defense_FR_2006.pdf)

“ le balanco”



Dessin: George ALAM

All of the 59 VOT were verbally tortured, 42 stated that they were physically tortured while 17 were verbally tortured only. (Fig.3)

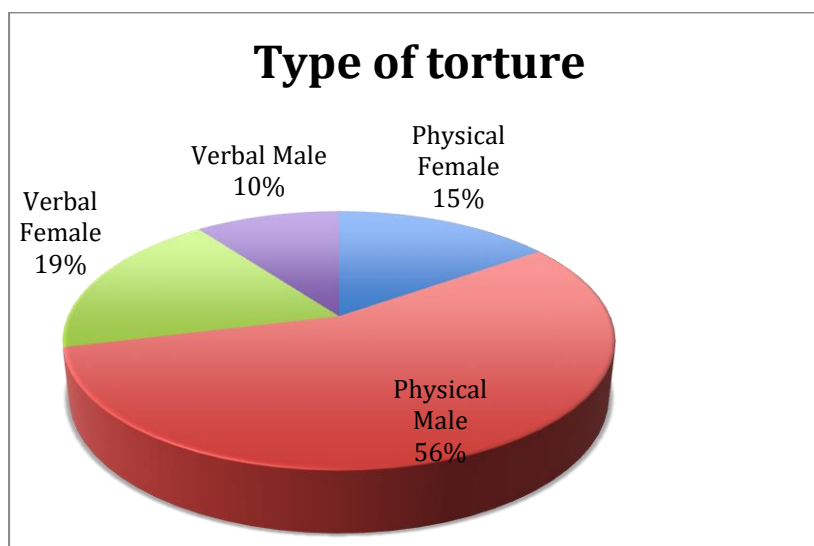
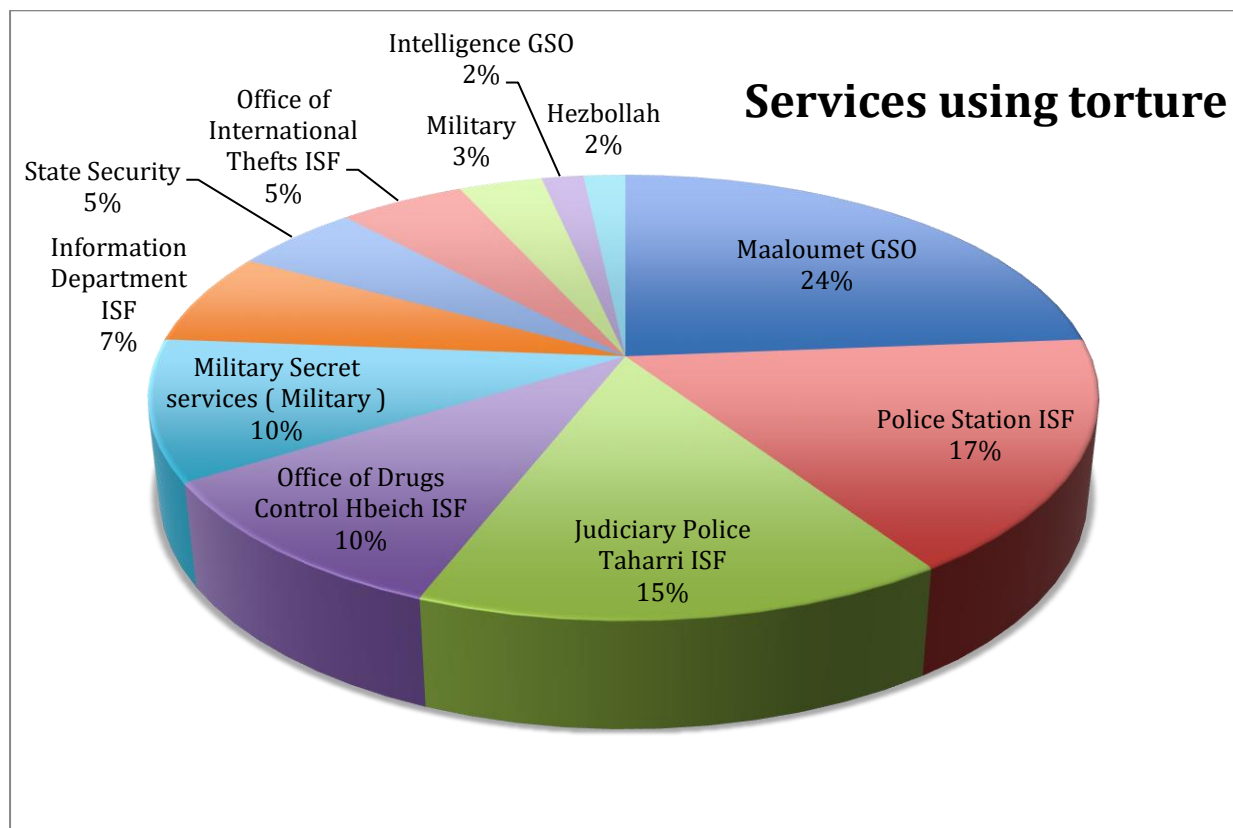


Figure 3 Type of Torture

### 3.4. SERVICES USING TORTURE AS STATED BY THE INTERVIEWED INMATES

During their interviews, inmates mentioned which service authority used torture as a method during their detention; 14 inmates stated that they were tortured by the Maaloumet (GSO), 10 inmates were tortures by the Internal Security Forces Police Station in different regions, 9

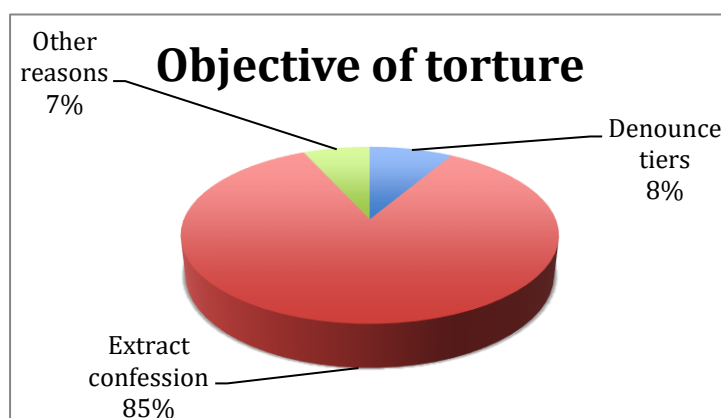
stated that they were tortured by the judiciary police investigators (Taharri), 6 at the Office of Drugs control of the ISF (Hbeich), 6 at the Military Secret Services, 4 at the Information Department of ISF, 3 at the State Security, 3 at the Office of the International Theft of the ISF, 2 by the Military, 1 by the Intelligence at the GSO and 1 by Hezbollah (Fig.4).



**Figure 4 Services using Torture**

### 3.5. THE USE OF TORTURE

Local Services used torture as a method for two main objectives as stated by VOT. 5 inmates said they were tortured to denounce tiers, while 50 inmates stated that they were tortured to extract confession and 4 were tortured for unidentified reasons (Fig.5).



**Figure 5 Reasons for Torture**



### **3.6. REPORTED CASES AND RELEVANT JUDICIAL DECISION**

26 inmates reported being tortured by local services to the judge during their trial while the remaining 33 inmates interviewed stated that they did not report being tortured to the judge during trial or to anyone.

Out of the 26 inmates who reported about the torture only two judges took actions.

\*Anonymous, Syrian refugee was arrested in December 2017 and sexually harassed by ISF official at the police station while being interrogated. She was searched by a man official, who ripped out her clothes. The police officer then masturbated. She then reported this act of assault to the judge during her trial and the judge reported this incident and he was sentenced to 52 days of detention.

## **4 SECTION FOUR: SUMMARY FINDINGS, CONCLUSION AND RECOMMENDATIONS**

### **4.1. SUMMARY FINDINGS AND CONCLUSION**

Despite the inconsistency of the Lebanese legislation in terms of prohibition and prevention of torture, Lebanon's international commitments have legally binding force. Thus, by failing to incorporate international standards into its national law, Lebanon violates its international commitments. The findings remain unchanged since 2018-2019. 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, and is at least accepted by the Lebanese Justice system. The entirety of the persons who had been arrested and subjected to torture and other form of ill-treatment were not able to report those acts properly. On one hand, some VOTs did not complain about being tortured due to fear of reprisal or due to absence of faith in the Lebanese judicial system. On the other hand, most of the VOTs that complained found that their claims were dismissed by judges, and as such no punitive measures were taken to sanction perpetrators. Contrary to the Lebanese Government's claims, their complaint remained unresolved. The latter did not take any action, neither to cancel the confessions nor to open an

investigation into the allegations. Moreover, in many cases where victims were subjected to beatings the signs of torture had disappeared when brought before the judge and therefore not visible on their body to prove that they had been tortured

Detainees do not yet enjoy the right to reformation and rehabilitation. Official action to that end remains inadequate, particularly in the wake of the internal and regional political and security crises afflicting Lebanon. Redress involves official recognition that harm has been done to the person in question. Absent genuine recognition of responsibility by the Lebanese authorities, our prediction is that practice of torture in Lebanese prisons will not diminish, and will remain systematic.

## **4.2. RECOMMENDATIONS**

CLDH recalls the need for the Lebanese government to implement the recommendations listed below:

1. Bring a definitive end to the practice of torture and reject any statements obtained thereof;
2. Ensure that the definition and the criminalization of the offense of torture is in line with Lebanon's international obligations;
3. A clear commitment to Article 14 of the adopted CAT and amended definition of torture according to Article 1 of the Convention because the draft of torture project submitted to the parliament not paralleled with the content of the Convention against Torture.
4. Operationalize the NPM and ensure it is able to effectively carry out its mandate in full compliance with OPCAT and without interference of any kind;
5. Respect the principle of non-refoulement, at all times, regardless of the person's nationality or judicial status with respect to article 3 of the CAT;
6. Address the issue of overcrowding in prisons by limiting the duration of pre-trial detention and improving conditions of detention;
7. Strengthen the independence of the judiciary and end the arbitrary detention and lack of trial of civilians from military court;
8. Enhance dialogue with civil society and the legal protection of human rights defenders;
9. The right to a remedy and rehabilitation as a form of reparation to be integrated by the Lebanese Law.

# BIBLIOGRAPHY

## UN RECOMMENDATION / CONCLUSION / RESOLUTION / GENERAL COMMENT

UN Committee against Torture, General Comment No. 2: Implementation of Article 2 by States Parties, 24 January 2008, available at: <https://www.refworld.org/docid/47ac78ce2.html> [accessed 20 July 2019] (cited below: 2008 UN General Comment No. 2).

UN Committee Against Torture, General Comment No. 3, 2012: Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment: Implementation of Article 14 by States Parties, 13 December 2012, available at: <https://www.refworld.org/docid/5437cc274.html> [accessed 20 July 2019] (cited below: 2012 UN General Comment No. 3).

UN Committee against Torture, Summary record of the 1509th meeting, 25 April 2017, CAT/C/SR.1509, available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/097/47/PDF/G1709747.pdf?OpenElement> [accessed 20 July 2019] (cited below: 2017 UN Summary record).

UN Committee against Torture, Concluding Observations on the initial report of Lebanon, 30 May 2017, CAT/C/LBN/CO/1 (cited below: 2017 UN Concluding Observations).

UN Committee against Torture, Committee against Torture considers initial report of Lebanon, 21 April 2017, available at: <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=21521&LangID=E> [accessed 20 July 2019] (cited below: 2017 UN Committee against Torture considers initial report).

UN Committee on the Elimination of Discrimination against Women, General Recommendation No. 19: Violence against women, 1992, available at: <https://www.refworld.org/docid/52d920c54.html> [accessed 20 July 2019] (cited below: 1992 UN General Recommendation No. 19).

UN Human Rights Committee, CCPR General Comment No. 20: Article 7 (Prohibition of torture, or other cruel, inhuman or degrading treatment or punishment), 10 March 1992, available at: <https://www.refworld.org/docid/453883fb0.html> [accessed 20 July 2019] (cited below: 1992 UN General Comment No. 20).

UN Human Rights Committee, CCPR General Comment No. 21: Article 10 (Humane treatment of persons deprived of their liberty), 10 April 1992, available at: <https://www.refworld.org/docid/453883fb11.html> [accessed 20 July 2019] (cited below: 1992 UN General Recommendation No. 21).

UN Human Rights Committee, CCPR General Comment No. 24: Issues Relating to Reservations Made upon Ratification or Accession to the Covenant or the Optional Protocols thereto, or in Relation to Declarations under

article 41 of the Covenant, 4 November 1994, available at: <https://www.refworld.org/docid/453883fc11.html> [accessed 20 July 2019] (cited below: 1994 UN General Comment No. 24).

UN Human Rights Committee, CCPR General Comment No. 29: Article 4 (Derogations during a state of emergency), 31 August 2001, available at: <https://www.refworld.org/docid/453883fd1f.html> [accessed 20 July 2019] (cited below: 2001 UN General Comment No. 29).

UN Human Rights Committee, Consideration of reports submitted by States parties under article 40 of the Covenant, Third periodic reports of States parties due in 1999: Lebanon, 28 December 2016, CCPR/C/LBN/3, available at: <https://www.refworld.org/docid/591d93534.html> [accessed 20 July 2019] (cited below: 2016 UN Consideration of reports).

UN Human Rights Committee, List of issues in relation to the third periodic report of Lebanon, 31 August 2017, CCPR/C/LBN/Q/3, available at: <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPrICAqhKb7yhst0EqMtyqQ%2BAVhHZipQtX7Z9Y9MY3zAgso6mjwpFVj0IDqsAlV120JAtlmxeFEME17U1o9ZQLTyJXnb505np0AyWjRVhBm1lAx1Qmil8lGwJ> [accessed 20 July 2019] (cited below: 2017 UN List of issues).

UN, Human Rights Council, Seventh Session, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak, A/HRC/7/3, 15 January 2008 (cited below: 2008 UN Manfred Nowak).

UN Office of the High Commissioner for Human Rights (OHCHR), Fact Sheet No. 15 (Rev.1), Civil and Political Rights: The Human Rights Committee, May 2005, available at: <https://www.refworld.org/docid/4794773c0.html> [accessed 20 July 2019] (cited below: OHCHR Fact Sheet No. 15).

## **NGOs REPORT / ARTICLE**

ALEF, ‘Protection Framework: Towards Increased Protection for Migrant Domestic Workers in Lebanon’, March 2019.

ALKARAMA, ‘Lebanon: Parliament Approves Law Instituting a National Human Rights Institution and a National Preventive Mechanism Against Torture’, 26 October 2016, <https://www.alkarama.org/en/articles/lebanon-parliament-approves-law-instituting-national-human-rights-institution-and-national> [accessed 20 July 2019] (cited below: Alkarama, NHRI)

ALKARAMA, ‘Lebanon Shadow report – Report submitted to the Human Rights Committee in the context of the review of the third periodic report of Lebanon’, 12 February 2018. (cited below: Alkarama, Lebanon Shadow Report)

ALKARAMA, UN Committee against Torture Calls Torture in Lebanon a “Pervasive Practice” and Paves the Way Forward, 10 October 2014, <https://www.alkarama.org/en/articles/un-committee-against-torture-calls-torture-lebanon-pervasive-practice-and-paves-way> [accessed 20 July 2019]. (cited below: Alkarama, Pervasive Practice)

ALKARAMA, Follow-up to the Committee against Torture’s recommendations, 4 September 2018. (cited below: ALKARAMA, Follow-up to the Committee against Torture).

AMEL, ‘UN Human Rights Committee published findings on Lebanon’, 6 April 2018, available at: <https://amel.org/un-human-rights-committee-publishes-findings-on-lebanon/> [accessed 20 July 2019] (cited below: AMEL, UN Human Rights Committee published findings on Lebanon).

AMNESTY INTERNATIONAL, ‘Lebanon: Failure to implement anti-torture law one year on’, 25 October 2018, available at: <https://www.amnesty.org/en/latest/news/2018/10/lebanon-failure-to-implement-anti-torture-law-one-year-on/> [accessed 20 July 2019] (cited below: Amnesty International, Failure to implement anti-torture law).

APT, ‘Aspects of the Definition of Torture in the Regional Human Rights Jurisdictions and the International Criminal Tribunals of the Former Yugoslavia and Rwanda’, Background Paper 2, APT Seminar on the Definition of torture, Association for the Prevention of Torture, November 2001, available at: [https://www.apr.ch/content/files\\_res/Definition%20of%20Torture\\_Seminar\\_EN.pdf](https://www.apr.ch/content/files_res/Definition%20of%20Torture_Seminar_EN.pdf) [accessed 20 July 2019] (cited below: APT, Aspects of the Definition of Torture).

APT / CEJIL, ‘Torture in International Law – A guide to jurisprudence’, 2008 (cited below: APT / CEJIL, Torture in International Law).

CLDH, ‘The Lebanese Commission for Human Rights and Its National Preventive Mechanism: Report for its Initial Activities on Human Rights in Lebanon and Best Practices for NHRIs’, 2018 (cited below: CLDH, NHRI).

CLDH, ‘Victims of Torture from Syria: Staying in Lebanon and Suffering Repeated Traumatizing Experiences’, July 2016 (cited below: CLDH, Victims of Torture from Syria).

CLDH, ‘Legal Aid to Vulnerable individuals in Lebanon’, January 2017 (cited below: CLDH, Legal aid).

CLDH, ‘Women behind bars: Arbitrary detention and torture’, April 2015 (cited below: CLDH, Women behind bars).

CIT, ‘Safeguards in the first hours of police detention’, 2017 (cited below: CIT, Safeguards in the first hours of police detention).

CVT, 'Effects of Torture', April 2015, available at: <https://www.cvt.org/sites/default/files/downloads/CVT%20Effects%20Torture%20April%202015.pdf> [accessed 20 July 2019] (cited below: CVT, Effects of Torture).

HRW, 'Lebanon: Anti-Torture Body Named', 22 March 2019, available at: <https://www.hrw.org/news/2019/03/22/lebanon-anti-torture-body-named> [accessed 20 July 2019] (cited below: HRW, Anti-Torture Body Named).

HRW, 'Lebanon: New Law a Step to End Torture', 28 October 2016, available at: <https://www.hrw.org/news/2016/10/28/lebanon-new-law-step-end-torture> [accessed 20 July 2019] (cited below: HRW, New Law a Step to End Torture).

HRW, 'Lebanon: Syrians Summarily Deported from Airport', 24 May 2019, available at: <https://www.hrw.org/news/2019/05/24/lebanon-syrians-summarily-deported-airport> [accessed 20 July 2019] (cited below: HRW, Syrians Summarily Deported from Airport).

OHCHR, 'The principle of Non-Refoulement under International Human Rights Law', 2018, available at: <https://www.ohchr.org/Documents/Issues/Migration/GlobalCompactMigration/ThePrincipleNon-RefoulementUnderInternationalHumanRightsLaw.pdf> [accessed 20 July 2019] (cited below: OHCHR, The principle of Non-Refoulement).

THE DAILY STAR, 'NGOs Decry Deportation of Syrians from Lebanon', 24 June 2019, available at: <http://www.dailystar.com.lb/News/Lebanon-News/2019/Jun-24/485983-ngos-decry-deportation-of-syrians-from-lebanon.ashx> [accessed 20 July 2019] (cited below: The Daily Star, NGOs Decry Deportation of Syrians from Lebanon).

HEARTLAND ALLIANCE, 'Torture and ill-treatment of detainees in Iraq and the Iraqi Kurdistan region: A Report on Prevalence and Practice', March 2015 (cited below: Heartland Alliance, Torture and ill-treatment of detainees).

ICRC, 'Prohibition and punishment of torture and other forms of ill-treatment', June 2014 (cited below: ICRC, Prohibition and punishment of torture).

INTERNATIONAL DETENTION COALITION, 'Legal framework and standards relating to the detention of seekers and migrants: A guide', 2011 (cited below: International Detention Coalition, the detention of seekers and migrants).

OSCE, 'Preventing Torture: A handbook for OSCE field staff', 30 January 2009, available at: <https://www.refworld.org/docid/498aaafd.html> [accessed XX June 2019] (cited below: OSCE, Preventing Torture).

OSCE, 'The Fight against Torture: The OSCE Experience', 2009 (cited below: OSCE, The Fight against Torture).

OSCE, 'Providing Rehabilitation to Victims of Torture and other Ill-treatment', UNCAT Implementation Tool 5/2018 (cited below: OSCE, Providing Rehabilitation).

PENAL REFORM INTERNATIONAL, 'Mandela Rules' on Prisoner Treatment Adopted', 26 May 2015, available at: <https://www.penalreform.org/news/mandela-rules-on-prisoner-treatment-adopted/> [accessed 20 July 2019] (cited below: Penal Reform International, Mandela Rules).

REDRESS, 'Ending Torture, Seeking Justice for Survivors, Technical Commentary on the Anti-Torture Framework in Nigeria', February 2017, available at: <https://www.refworld.org/pdfid/58bd6bb44.pdf> [accessed 20 July 2019] (cited below: Redress, Ending Torture).

UNHCR, Beyond Detention: A Global strategy to support governments to end the detention of asylum-seekers and refugees, 2014 (cited below: UNHCR, Beyond Detention).

## **JURISPRUDENCE**

Angel Estrella v. Uruguay, Communication No. 74/1980; U.N. Doc. A/38/40 at 150 (HRC 1983) (cited below: Estrella v. Uruguay).

Kennedy v. Trinidad and Tobago, Communication No. 845/1998, U.N. Doc. A/57/40, Vol. II (HRC 2002) (cited below: Kennedy v. Trinidad and Tobago).

Mukong v. Cameroon, Communication No. 458/1991, U.N. Doc. CCPR/C/51/D HRC 1994 (cited below: Mukong v. Cameroon).

Pinto v. Trinidad and Tobago, Communication No. 512/1992, (HRC 1996) (cited below: Pinto v. Trinidad and Tobago).

## **LITERATURE**

AESCHLIMANN A., 'Protection of detainees: ICRC action behind bars', Vol. 87 No. 857, 2005.

BARNA M., 'From Torture to Detention: Access of Torture Survivor and Traumatized Asylum-Seekers to Rights and Care in Detention', 2015.

BASOGLU ET AL., 'Torture vs Other Cruel, Inhuman, and Degrading Treatment, Archive of General Psychiatry, Vol. 64, March 2007, available at: <http://rchpsycama-assn.org/cgi/repring/64/3/277> [accessed 20 July 2019].

BOULESBAA A., 'The UN Convention on Torture and the Prospects for Enforcement', Martinus Nijhoff Publishers, 1999.

BURCH E. S., 'Rethinking "Preventive Detention" from a comparative perspective: Three frameworks for detaining terrorist suspects', 2009.

BURGERS J. H. / Danelius H., 'The United Nations Convention against Torture – A Handbook on the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment', Martinus Nijhoff Publishers, 1988.

COSMAN J. W., 'Declaration of basic principles for the treatment of prisoners', Journal of Correction Education, Vol. 40 No. 2, 1989.

SURLAN T., 'Prohibition of torture: absolute or relative', 2017.

THIENEL T., 'The Admissibility of Evidence Obtained by Torture under International Law', The European Journal of International Law (EJIL), Vol. 17 No. 2, 2006.

WENDLAND L., 'A Handbook on State Obligations under the UN Convention against Torture', Geneva, May 2002.

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## APPENDIX

### ***TIMELINE***

The timeline displays the most important dates regarding torture in Lebanon between 1997 and 2017.



