



**Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment**

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**Consideration of reports submitted by States parties
under article 19 of the Convention**

Concluding observations on the initial report of Lebanon

Addendum

**Information received from Lebanon on follow-up to the concluding
observations***

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* The present document is being issued without formal editing.



Reply from Lebanon to the four priority recommendations made to the Lebanese State by the Committee responsible for the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

I. The Committee's recommendations concerning the provisions of the law criminalizing torture

1. On 20 September 2017, the Lebanese legislature adopted Act No. 65 concerning "the prosecution of torture and other cruel, inhuman or degrading treatment or punishment" aimed at amending articles 104 and 185 of the Criminal Code and articles 10 and 24 of the Code of Criminal Procedure.

2. The Act defines the offence of torture and stipulates that orders to carry out acts of torture are to be considered illegal. It contains specific provisions concerning the statute of limitations and rules governing the examination and investigation of offences of torture.

1. The request to ensure that the definition of the offence of torture in Act No. 65/2017 is in conformity with the definition contained in article 1 of the Convention

3. The definition of the offence of torture in Act No. 65/2017 is in conformity with the provisions of article 1 of the Convention against Torture, which is quoted almost verbatim in article 1 of the Act, which stipulates that torture means any "act" that is "expressly" or "implicitly" inflicted by or at the "instigation" of or with the acquiescence of a public official or other person acting in an official capacity during an inquiry, a preliminary investigation, a judicial investigation, or during legal proceedings and the enforcement of sentences, which inflicts severe pain or suffering, whether physical or mental, and is intentionally inflicted on a person:

- To obtain information or a confession;
- To punish a person for an act he committed or is suspected of having committed;
- To intimidate a person so that he performs or refrains from performing an act;
- For any reason based on discrimination of any kind.

4. It is clear from the foregoing that most components of the definition of the crime of torture contained in article 1 of the Convention against torture are reflected in Lebanese law, especially with the addition of the phrase "during an inquiry, a preliminary investigation, a judicial investigation, or during legal proceedings or the enforcement of sentences". This demonstrates the comprehensive applicability of the definition, which covers all stages of the investigations, including those conducted by law enforcement officers, and the period following delivery of the judgment.

5. The Government of Lebanon reaffirms that all law enforcement officers, including the Internal Security Forces, the Public Security Forces and the army, are subject to the provisions of Act No. 65/2017, particularly in light of article 19 of the Military Justice Act, which stipulates that military intelligence officers who conduct preliminary investigations shall be regarded as law enforcement officers.

2. The penalties prescribed by Act No. 65/2017 should take into account the grave nature of the crime of torture

6. The Lebanese legislature endorsed the principle of scaling of the penalties prescribed for the crime of torture, based on the gravity of the harm inflicted on the victim. This is consistent with the principle of justice and equity and the general principles applicable to the classification of offences in the Criminal Code.

7. The following increasingly severe penalties have been prescribed in the Act:

- (i) A term of imprisonment of 1 to 3 years if the torture did not result in death or in permanent or temporary physical or mental impairment or disability;
- (ii) A term of imprisonment of 3 to 7 years if the torture leads to temporary physical or mental impairment, injury or disability;
- (iii) A term of imprisonment of 5 to 10 years if the torture leads to permanent physical or mental impairment or disability;
- (iv) A term of imprisonment of 10 to 20 years if the torture results in death.

8. These penalties demonstrate the seriousness and stringency of the Lebanese legislature when it comes to punishing and combating the crime of torture. The basic aim of the prescribed criminal penalties is to deter all persons who contemplate committing the offence of torture, and the minimum prison term is one year.

3. The Lebanese Government's justification for rendering the offence of torture subject to the statute of limitations

9. Article 10 of the Lebanese Code of Criminal Procedure specifies the conditions governing the statute of limitations. It states that the statute of limitations expires after 10 years in the case of a felony, 3 years in the case of a misdemeanour, and 1 year in the case of a petty offence. The statute of limitations begins to run in the case of instantaneous offences on the date of their occurrence, and in the case of continuous offences on the date on which the criminal situation comes to an end. The statute of limitations is suspended if it proves impossible, because of *force majeure*, to perform any act of prosecution, investigation or trial, and it resumes as soon as the impediment is eliminated.

10. Article 3 of Act No. 65 adds a paragraph to article 10, according to which the statute of limitations for the offence of torture shall not begin until the victim is released from prison, detention or pretrial detention if this is followed by deprivation of liberty. Accordingly, the victim has ample time to bring a lawsuit before the right is barred by the statute of limitations.

11. While this provision is not in strict conformity with the Convention against Torture, it is consistent with Lebanese public policy, according to which all offences, regardless of their gravity, are subject to a statute of limitations, in line with the principle that a degree of stability must be created in society after a period of time has passed since the occurrence of the offence and that the resulting wounds must be definitively healed.

II. Basic safeguards for detainees during the preliminary investigations

12. The Code of Criminal Procedure guarantees the rights of detainees prior to initiation of any investigations concerning them. Both article 32, which provides for the preliminary investigation of *in flagrante* offences, and article 47, which provides for the preliminary investigation of offences falling outside the *in flagrante* category, accord detainees fundamental safeguards pending the investigations. Suspects or persons complained of enjoy the following rights from the very moment they are taken into custody for the purposes of the investigation:

- To contact a member of their family, their employer, a lawyer of their choosing or an acquaintance;
- To meet with a lawyer they appoint by a declaration noted in the record, without the need for a duly drafted power of attorney;
- To ask for the assistance of a sworn interpreter if they are not proficient in the Arabic language;
- To submit a request for a medical examination to the public prosecutor, either directly or through their counsel or a member of their family. The public prosecutor must appoint a physician as soon as the request is submitted. No law enforcement officer may be present when the physician carries out the examination. The

physician must submit his report to the public prosecutor within a period not exceeding 24 hours. A copy of the report must be provided to the applicant by the public prosecutor upon receipt thereof. The detainee and any of the above-mentioned persons may request an additional examination if the period of custody is extended.

- The law enforcement officer must inform suspects, as soon as they are taken into custody, of the rights listed above, and this measure must be noted in the record.

13. The recommendations of the Committee against Torture focused on the following issues:

- The right of confidential access to a lawyer;
- The right at any time to a medical examination out of sight of law enforcement officers;
- The right to an interpreter for detainees who do not speak Arabic;
- Audio and video recording of interrogations, which should be made available to judges and lawyers;
- Reform of the legal aid system with a view to providing free legal aid to persons without sufficient means.

1. Detainees' right to a lawyer

14. Respect for detainees' right to a lawyer means, in practice, that they should be able to exercise their right to defence counsel either for an *in flagrante* offence (art. 32) or for an offence falling outside the *in flagrante* category (art. 47). The importance of guaranteeing this right does not consist solely in protecting the right to a defence. It also plays a particularly important role in preventing and combating torture, inasmuch as the lawyer's presence constitutes a means of controlling the investigation proceedings in order to prevent investigators from occasionally resorting to unlawful measures.

15. Article 32 of the Code of Criminal Procedure clearly recognizes the right of the person being interrogated to **"ask for the assistance of a lawyer during the interrogation"**. Article 47 recognizes the person's right **"to meet with a lawyer he appoints by a declaration noted in the record, without the need for a duly drafted power of attorney"**.

16. The Code of Criminal Procedure also recognizes the right to remain silent, and stipulates that it is not permissible in such cases to compel the detained or arrested person to speak, during the investigations by a law enforcement officer into an *in flagrante* offence (art. 41) or an offence falling outside the *in flagrante* category (art. 47), and before the investigating judge (art. 77).

17. It is clear from the foregoing:

- That the Code of Criminal Procedure permits detainees to seek the assistance of a lawyer during their interrogation by a public prosecutor and, even more importantly, to exercise that right when appearing before law enforcement officers operating under the supervision of the public prosecutor;
- Article 47 of the Code of Criminal Procedure recognizes the right of detainees to meet with a lawyer they appoint by a declaration noted in the record. The Code thus recognizes the right to meet with a lawyer and, more importantly, it grants lawyers the right to be present during the interrogation of their clients.

18. It should be noted that, according to article 47, the presence of a lawyer is fundamental and legitimate if the appointment is based on a declaration noted in the record, without the need for a duly drafted power of attorney.

2. The right of the detainee to request a medical examination

19. Detainees have the right to request a medical examination. The request is submitted by the detainees' lawyer or by a member of their family to the public prosecutor, who is

required to appoint a physician immediately and without delay. The physician must examine the detainee without delay and no law enforcement officer may be present during the examination. The physician must submit a report to the public prosecutor within 24 hours.

20. The detainee is entitled to receive a copy of the appointed physician's report from the public prosecutor. Moreover, the detainee is entitled to request a second examination if the public prosecutor decides to extend the period of custody to four days. The right to a second examination is of great importance when it comes to promoting the rights of detainees, especially since it determines whether the detainee has been subjected to any type of physical or mental coercion.

21. The Ministry of Justice is currently restructuring the Department of Forensic Medicine. It established, with that end in view, a Committee composed of a number of judges and chaired by the Director-General of the Ministry of Justice. Having undertaken a study for the purpose, the Committee established the appropriate structure for the Department, which is headed by a judge who oversees and regulates its work.

22. In the same context, the Ministry of Justice organized workshops for forensic pathologists, most recently on 20 April 2018, in order to familiarize them with the principles of the Convention against Torture and, in particular the Istanbul Protocol on investigation and documentation.

23. It should further be noted that the Ministry of Justice signed a memorandum of understanding and cooperation with the Restart Centre for Rehabilitation of Victims of Violence and Torture, which led to the establishment of a pilot medical centre in northern Lebanon to undertake all forms of physical, social and psychological examinations of detainees, thus enabling the judiciary to detect all cases that might constitute torture. The Ministry of Justice will take steps to disseminate the results of this project to other courts of justice in Lebanon.

24. Lastly, it should be noted that the Ministry of Justice, in cooperation with the Restart Centre, is about to issue a document that will serve as a guide for Lebanese forensic pathologists. It will contain legal norms applicable to their work and a code of ethics. The document was prepared as part of a comprehensive programme of support for prison reform financed by the European Union. The Ministry of Justice is also working with the association to automate the Department of Forensic Medicine, which will undoubtedly have the practical benefit of speeding up all procedures.

3. The right of foreign detainees to the assistance of an interpreter

25. The right of detainees who are not fluent in Arabic to the services of an interpreter is a fundamental right enshrined in article 47 of the Code of Criminal Procedure. Although this right is not included among the rights listed in article 32 of the Code, it is respected in all cases because the judge or law enforcement officer is unable to conduct the interrogation without the presence of an interpreter.

26. It should be noted that Lebanon is a party to the 1963 Vienna Convention on Consular Relations, which is an integral part of Lebanese domestic legislation. The Convention entitles countries to send interpreters to attend sessions at which their nationals are interrogated.

4. Producing video and audio recordings of interrogations and making them available to judges, lawyers and defendants

27. The video and audio recording of interrogations ensures that all detainees' basic guarantees are respected when they appear before law enforcement officers.

28. In addition, the Directorate General of the Internal Security Forces has installed CCTV cameras in all police stations, which are to be linked to the Department of Human Rights of the General Inspectorate of the Internal Security Forces. It will thus be possible to view all investigations in order to monitor preliminary investigation procedures and take steps to impede violations and acts of torture.

5. Reform of the legal aid system with a view to providing free legal aid to persons without sufficient means

29. The sole requirement for the appointment of a lawyer in a criminal case is for defendants to submit a request for the appointment of a lawyer to defend them in the legal proceedings. Once the request is submitted, the judicial authority responsible for the case is required to inform the President of the Bar Association thereof. The President then appoints a lawyer for the defendant.

30. Defendants who are in custody can also send a letter to the President of the Bar Association through the prison warden requesting him to appoint a lawyer. The President then refers the request to the Legal Aid Committee of the Bar Association so that it may study the matter and propose lawyers to defend the accused. The lawyers' names are submitted to the President for assignment of the task.

31. This right is reserved for detainees appearing before investigating judges and the criminal courts. It may not be exercised during preliminary investigations by the public prosecutor's office related to appeal-court proceedings.

III. The National Commission for Human Rights

32. Act No. 62 promulgated on 27 October 2016 established the National Commission for Human Rights and the National Committee for the Prevention of Torture. Article 2 of the Act established the procedure for nominating and appointing the 10 members (5 for the National Commission for Human Rights and 5 for the National Committee for the Prevention of Torture) and the procedure for nominating candidates for membership of the Commission by the Supreme Judicial Council, the Bar Association, the Medical Association, Lebanese University Council of Deans, the Press and Editors Syndicate, and civil society.

33. All nominations were completed, and the files and names of the candidates were deposited with the General Secretariat of the Office of the President of the Council of Ministers in March/April 2017. The number of candidates totalled 43, as stipulated in Act No. 62.

34. The Council of Ministers decided on 21 May 2018 to approve a draft decree concerning the appointment of the members of the National Human Rights Commission, including the National Committee for the Prevention of Torture, and specifying the mandate of the Committee, in accordance with Act No. 62 of 27 October 2016.

35. Lastly, it should be noted that a decree has been drafted with a view to establishing the fees that members of the National Human Rights Commission should receive for the full-time and independent performance of their duties.

IV. Internal prison complaint mechanisms

36. Lebanese law grants numerous bodies the authority to inspect prisons. In practice, prison conditions are examined and inspected by:

- The Ministry of the Interior;
- The governor;
- The judiciary;
- The International Committee of the Red Cross (ICRC).

A. Authority of the Ministry of the Interior

37. Authority to inspect prisons is granted to:

- The head of the gendarmerie or the person entrusted with prison inspections subject to the authority of the Ministry of the Interior;
- Battalion or platoon commanders for the prisons under their command;
- Administrative inspectors assigned by the Minister of the Interior.

38. The first complaint mechanism will be opened in Roumieh Prison and will be attached to the Department of Human Rights of the General Inspectorate of the Internal Security Forces. All complaints will be forwarded to the Department, which will in turn refer them, depending on their content, to the competent authorities. The judicial authorities will be entitled, at all times, to review complaints.

B. Authority of the governor

39. Governors oversee the implementation of laws and regulations applicable to prisons and places of detention in their governorate and visit them at least once a month for monitoring purposes.

40. If governors are informed by any means of the occurrence of abuse or ill-treatment, they may undertake an investigation themselves or order an investigation and propose all measures or sanctions that they deem appropriate to the Minister of the Interior.

41. If governors are informed of or investigate any error or violation attributable to gendarmerie prison guards, they are required to submit a report to the Minister of the Interior and to order an investigation or take the necessary measures.

C. The judiciary

42. The judiciary, as the guardian of fundamental freedoms and human rights, oversees the proper implementation of the legislation governing prisons.

43. The appeal court prosecutor, the financial prosecutor, the investigating judge and the single criminal judge are required, once a month, to investigate the situation of persons held in places of detention and prisons in their areas of jurisdiction (article 402 of the Code of Criminal Procedure).

44. The appeal court prosecutor, his deputy, the judge appointed by the Minister of Justice for the purpose, prosecutors of the court of first instance and the single criminal judge are entitled to monitor all State prisons to ensure the legality of inmates' detention and release. During their visits to prisons, they can request access to the register of detainees, the register of convicted prisoners and the register of inmates in solitary confinement. If they wish to obtain additional clarifications, a written request may be submitted to the immediate superior of the director of the prison or of the prison wing, provided that it is consistent with the provisions of the Code of Criminal Procedure.

45. Inspections of inmates in places of detention and prisons are undertaken once a month by the investigating judge and the single criminal judge and at least once every three months by the presidents of the criminal courts.

46. The appeal court prosecutor, his deputy, presidents of the criminal courts, court of first instance prosecutors, investigating judges and single criminal judges can order guards in places of detention and prisons to implement the measures required by investigative procedures and trials.

D. International organizations

47. Lebanon has authorized international organizations to inspect prisons in order to guarantee transparency. Decree No. 8800, which was promulgated on 4 October 2002, contains the following provisions:

- It permits delegates of the International Committee of the Red Cross to visit prisoners of their choice and to converse freely with them, without any guards being present and without restrictions on the time taken. The delegates choose the place in the prison where the interview will be held and they may also record the identity of the prisoners whom they meet;
- ICRC physicians are also permitted to meet prisoners of their choice and to examine them without a guard being present. A room in each prison is designated for that purpose;
- Physicians in each prison offer assistance to ICRC medical delegates and provide them with all the information that they require to perform their duties. The medical delegates are permitted, with that end in view, to review prisoners' medical files and to inspect all medical facilities available to prisoners;
- The sole purpose of such visits is to assess prisoners' physical and psychological conditions, their past and present conditions of detention and treatment, and any other issue of a purely humanitarian nature.

48. It should be noted that prisons are subject under Lebanese law to the authority of the Ministry of Justice:

- Decree No. 17315, promulgated on 28 August 1964, provided for the establishment of a "Prison Administration" department in the Ministry of Justice subject to the direct authority of the Minister of Justice. The powers and functions of the Prison Administration were to be specified in a decree to be adopted subsequently by the Council of Ministers. Such a decree has not, however, been promulgated to date;
- Legislative Decree No. 151 of 15 September 1983 provided for the organization of the Ministry of Justice, particularly article 29 concerning the Directorate of Prisons, and specified its powers with respect to the affairs of prisoners, their care and rehabilitation, and the application of prison regulations. It stipulates that the Directorate of Prisons shall be organized and its functions, powers and staff shall be determined by a decree to be adopted by the Council of Ministers in response to a proposal by the Minister of Justice;
- It should be noted that the Directorate of Prisons in the Ministry of Justice, with the support of the United Nations Office on Drugs and Crime, has been installing complaint boxes in all Lebanese prisons. A public supervisor opens the complaint boxes and extracts the complaints in the presence of a representative of the Ministry of Justice or a social welfare assistant. The Directorate of Prisons receives all such complaints concerning prisoners' living conditions with a view to resolving them or referring them to the competent authorities for appropriate action.

49. Lastly, it should be noted that, following the appointment of the members of the Committee for the Prevention of Torture, article 23 of Act No. 62 assigns the following functions to the Committee:

- To conduct regular or unannounced visits at any time to places of deprivation of liberty without prior notice and without the need for authorization from any administrative, judicial or other body;
- To undertake collective or individual interviews in private with any persons they wish who are deprived of their liberty, without any surveillance and with the presence, if necessary, of an interpreter;
- To interview any other person who may, in its view, provide relevant information or any assistance that it deems necessary, and to exercise unrestricted authority to obtain any confidential information required by the Committee's work; the Committee shall not publish any information without the consent of the person concerned or the source;
- To receive complaints or requests for an interview from the above-mentioned persons or for a medical examination or treatment.