



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

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**Committee against Torture**

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

**Initial reports of States parties due in 2001**

**Lebanon\*\*,\* \*\*\***

[Date received: 9 March 2016]

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\* Reissued for technical reasons on 5 January 2017.

\*\* The present document is being issued without formal editing.

\*\*\* The annexes to the present report are on file with the Secretariat and are available for consultation.  
They may also be accessed from the web page of the Committee against Torture.

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## Preface

1. Lebanon ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (referred to hereinafter as “the Convention against Torture” or “the Convention”) pursuant to Act No. 185 of 24 May 2000 (accession on 5 October 2000) and ratified the Optional Protocol to the Convention against Torture pursuant to Act 12 of 5 September 2008 (accession on 22 December 2008).

2. Under article 19 of the Convention, the Lebanese State was required to submit its initial report within one year after the entry into force of the Convention for Lebanon, specifically on 4 November 2011. The exceptional political, economic, social and security situation experienced in Lebanon over the past 14 years, however, rendered it impossible to fulfil this requirement within the deadline.

3. During the period covered by the report, namely from the time of the entry into force of the Convention in Lebanon to the present date, a delegation from the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment visited the country, from 24 May to 2 June 2010, as did a delegation from the Convention against Torture, from 8 to 18 April 2013. The Lebanese Government did its utmost to facilitate the work of both delegations in order to ensure the success of their missions and arranged for them to meet the Lebanese officials concerned with human rights in general and with combating torture in particular. It also arranged visits to all of the detention centres and prisons that the members of the two delegations had requested to see.

4. The present report forms the initial report submitted to the Committee against Torture by Lebanon. It demonstrates the moral and legal commitment of Lebanon to the Convention against Torture, as well as its belief in the importance of the efforts to end, prohibit, criminalize and prevent torture, as part of further entrenching the human right to a life built on the principles of freedom, justice, equality and the preservation of human dignity.

5. The following ministries contributed to the preparation of this report: the Ministry of Foreign Affairs and Emigrants; the Ministry of Justice; the Ministry of the Interior and Municipalities; and the Ministry of National Defence. The report is largely focused on the laws in force in Lebanon, on government and ministerial decrees and decisions, and on circulars and information relating to the functions, efforts and activities of ministries and of governmental institutions and bodies involved in the implementation of international human rights conventions, including the Convention against Torture, and in the harmonization of Lebanese law with those conventions.

6. The report was prepared in accordance with the guidelines on the form and content of initial reports to be submitted by States parties to the international human rights treaties.

7. The report comprises an introduction and 16 parts corresponding substantively to the articles of the Convention against Torture, in addition to 11 annexes relating to human rights matters in Lebanon.

## Introduction

# General political and legal framework for the protection of human rights in Lebanon

## 1. General political framework

8. The essence and nature of the governance, foundations and legal systems underpinning the general political framework in Lebanon are determined in the preamble and provisions of the Lebanese Constitution.

9. The preamble to the Constitution thus proclaims that: “Lebanon is a free, independent, sovereign country, the final homeland for all of its citizens, united in its territory, its people and its institutions, within the borders provided for in this Constitution and internationally recognized.” Lebanon is “Arab in its identity and belonging. It is a founding and active member of the League of Arab States and is bound by its charters. It is also a founding and active member of the United Nations Organization and is bound by its charters and by the Declaration of Human Rights. The State shall embody these principles in all fields and areas, without exception.”

10. A political system based on parliamentary democracy and on respect for human rights and public freedoms is enshrined in the Constitution, the preamble to which affirms that: “Lebanon is a democratic parliamentary republic founded on respect for public freedoms, primarily freedom of opinion and belief, on social justice and on equal rights and duties among all citizens, without distinction or preference. The people are the source of authority and the holders of sovereignty, which they shall exercise through the constitutional institutions.”

11. The Constitution also enshrines the separation and independence of powers as a fundamental principle of the Lebanese political system, stating as it does that: “The system is founded on the principle of the separation and balance of powers and cooperation among them.”

12. With respect to economic matters, the preamble to the Constitution provides that: “The economic system is liberal and guarantees individual initiative and private ownership”; and that: “The balanced cultural, social and economic development of the regions is a mainstay of the unity of the State and the stability of the system.”

13. With respect to social matters, the preamble to the Constitution states that: “The abolition of political confessionalism is a fundamental objective to be achieved in accordance with a phased national plan”; that: “The territory of Lebanon is a single territory belonging to all Lebanese. Every Lebanese citizen has the right to reside in any part thereof and to benefit therefrom in accordance with the rule of law. There shall be no segregation of the people on the basis of any affiliation and no division, partition or settlement”; and that: “No legitimacy shall be accorded to any authority that violates the pact of communal existence.”

14. The Constitution sets out the right and duties of Lebanese citizens and makes detailed provision for the key legislative, executive and judicial branches of government.

### (a) The legislative branch

15. The legislative branch is represented by the National Assembly, which comprises 128 deputies elected by direct secret ballot for a four-year term by Lebanese citizens over 21 years of age. Parliamentary seats are allocated in accordance with the following rules:

- Equally between Christians and Muslims;
- Proportionately among the confessional communities of Christians and Muslims;
- Proportionately among the regions.

16. The principal functions of the National Assembly are to enact laws, elect the President of the Republic, express confidence in the Government, oversee its activities and hold it to account.

**(b) The executive branch**

17. The power of the executive branch is vested in the Cabinet (art. 65 of the Constitution, as amended by the Constitutional Act promulgated on 21 September 1990). The Cabinet meets periodically in special premises and its sessions are chaired by the President of the Republic when he is present. The activities of the Cabinet are subject to oversight by the legislative branch.

18. The President of the Republic is elected in a secret ballot by a two-thirds majority of members of the National Assembly in the first round and by an absolute majority in subsequent rounds. His term of office lasts for six years, following which he is barred from re-election for a further six years.

19. The President of the Republic designates the Head of the Government, in consultation with the Speaker of the National Assembly, on the basis of binding parliamentary consultations, the outcome of which he formally communicates to the Speaker.

20. The Head of the Government conducts parliamentary consultations on forming the Government and, together with the President of the Republic, signs the decree on its formation. The number of Cabinet members varies from one Government to another in accordance with the circumstances under which the Government is formed. The number of ministers in the present Government (February 2014) stands at 24, but there may be fewer or as many as 30, depending on how many political groups need to be represented in the Government. The Government exercises its powers and functions only after it has won the confidence of the National Assembly. There is no set term for its mandate, although it is deemed to have stepped down in the following cases:

- If the Head of the Government resigns or passes away;
- If the Government loses more than one third of its members;
- When the mandate of a new President of the Republic or a new National Assembly starts;
- When the National Assembly expresses no confidence in the Government.

**(c) The judicial branch**

21. The judicial branch is represented in general by the judicial institution at all levels. It is independent and subject to no political authority. Judges are independent in the performance of their functions, and the decisions and rulings of all courts are given and enforced in the name of the Lebanese people.

22. Article 20 of the Constitution provides that the power of the judicial branch is exercised by courts of all levels and jurisdictions. The judicial branch is represented by the following judicial organs:

- The Constitutional Council;
- Ordinary courts;

- Administrative courts;
- The Court of Audit;
- Sharia and spiritual courts;
- Extraordinary courts, such as the Military Court and the Justice Council.

23. The 10-member Constitutional Council is responsible for the constitutional monitoring of laws and settles disputes prompted by presidential and parliamentary elections.

24. The ordinary courts are in charge of settling civil, commercial and minor disputes of all kinds between individuals in the community. The Supreme Judicial Council oversees the proper functioning of judges in all courts at every level.

25. Represented by the State Consultative Council and composed of various judicial chambers, the administrative courts settle unresolved disputes between individuals and the public administration. They also consider the legitimacy of administrative decisions and their applicability to law (challenges to decrees and decisions).

26. The Court of Audit oversees the activities of public departments by monitoring expenditure requests in advance and subsequently monitoring proper implementation.

27. The spiritual courts are in charge of settling disputes arising out of the personal status laws of the Christian confessional communities, while the sharia courts, including those for the different schools of Islam, are in charge of settling disputes involving the Islamic confessional communities.

28. A number of extraordinary courts, including the Military Court and the Justice Council, have been established by Lebanese law to deal with exceptional problems on account of the security or political situation or the grave nature of crimes that have been committed.

## **2. General legal framework for the protection of human rights in Lebanon**

29. The legal framework for the protection of human rights in Lebanon essentially covers:

- The human rights enshrined in the Lebanese Constitution;
- The human rights enshrined in international treaties and instruments;
- The human rights enshrined in the national legislation.

### **(a) Provisions of the Lebanese Constitution enshrining fundamental human rights**

30. The Lebanese Constitution enshrines fundamental rights and freedoms, thereby conferring on them a status superior to that of all other norms recognized in the Lebanese legal system. These rights and freedoms are considered to be constitutional rights inherent to human beings and closely linked to human nature. The Constitution lays down the principles of respect for public freedoms, of equal rights and duties for all citizens, and of social justice. It underlines freedom of opinion and belief as one of the recognized essential public freedoms.

31. The preamble to the Constitution provides in paragraph (c) that: “Lebanon is a democratic parliamentary republic founded on respect for public freedoms, primarily freedom of opinion and belief, on social justice and on equal rights and duties among all citizens, without distinction or preference.”

32. Article 9 of the Constitution adds that: “Freedom of belief shall be absolute and, in fulfilling its duties of veneration to God Almighty, the State shall respect all religions and creeds and guarantee, under its protection, the freedom to engage in religious observance, provided that public order is not thereby prejudiced. It shall also guarantee respect for the personal status systems and religious interests of all confessional groups within the population.”

33. In addition to freedom of belief and opinion, the Lebanese Constitution further enshrines the freedoms of expression, assembly and association, providing in article 13 that: “The freedom to express opinions verbally or in writing, freedom of the press, freedom of assembly and freedom of association shall all be guaranteed within the limits prescribed by law.”

34. Concerning the principle of the equality of Lebanese citizens, article 7 of the Constitution provides that: “All Lebanese are equal before the law, shall enjoy equal civil and political rights and shall be equally bound by public obligations and duties, without distinction among them.” Article 12 emphasizes that: “Every Lebanese citizen has the right to hold public office, with no advantage to one person over another, except on the basis of merit and aptitude in accordance with the conditions laid down by law.”

35. Various other fundamental right and freedoms in addition to the above are enshrined in the Lebanese Constitution, notably:

- The right to personal liberty, with article 8 of the Constitution providing 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;”
- The right to inviolability of the home, with article 14 of the Constitution providing that: “The home shall be inviolable. No one may enter therein except in the circumstances and manner specified by law;”
- The right of ownership, with article 15 of the Constitution providing that: “Ownership shall be protected by law. No one may be divested of his property except in the public interest as provided for by law and after he has been fairly compensated in return.”

**(b) International and regional instruments enshrining human rights**

36. The preamble to the Constitution provides in paragraph (b) as follows:

37. “Lebanon is Arab in its identity and belonging. It is a founding and active member of the League of Arab States and is bound by its charters. It is also a founding and active member of the United Nations Organization and is bound by its charters and by the Universal Declaration of Human Rights. The State shall embody these principles in all fields and areas, without exception.”

38. Lebanon played an instrumental role in the elaboration of the Universal Declaration of Human Rights (10 December 1948) and has acceded to numerous human rights conventions of the United Nations, the League of Arab States and the Organization of Islamic Cooperation (formerly the Organization of the Islamic Conference).

39. Lebanon has ratified several of the core international human rights treaties, in particular:

1. The International Covenant on Civil and Political Rights (Decree No. 3855 of 1 September 1972);



2. The International Covenant on Economic, Social and Cultural Rights (Decree No. 3855 of 1 September 1972);
3. The Arab Charter on Human Rights (Act No. 1 of 5 September 2008);
4. The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Act No. 682 of 24 August 2005);
5. The Convention on the Elimination of All Forms of Discrimination against Women (Act No. 572 of 24 July 1996);
6. The Convention on the Rights of the Child (Act No. 20 of 30 October 1990);
7. Protocols I and II Additional to the Geneva Conventions, relating to the protection of victims of international armed conflict (Act No. 613 of 28 February 1972);
8. Optional Protocol to the Convention on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Act No. 12 of 5 September 2008).

**(c) Lebanese legislation enshrining fundamental human rights**

40. The main Lebanese laws providing for the protection, observance and exercise of human rights and for the exercise of fundamental freedoms are as follows:

- The Criminal Code and the Code of Criminal Procedure, which provide for the protection of personal liberty, prohibit any kind of arbitrary detention, set out the rights of persons deprived of liberty and establish basic fair trial guarantees;
- The Code of Civil Procedure, which provides for basic fair trial guarantees and the right of judicial remedy in order to secure rights;
- The Labour Code, which provides for the basic rights of workers;
- The Act on Punishment of the Offence of Trafficking in Persons, Especially Women and Children;
- The Act on the Protection of Juveniles in Conflict with the Law or at Risk, which is designed to protect children and ensure their rehabilitation;
- The Act on the Protection of Women and All Family Members from Domestic Violence, which safeguards the rights of women and promotes the elimination of all forms of discrimination against women as a matter of policy;
- The Rights of Persons with Disabilities Act.

**(d) Authorities concerned with human rights in Lebanon**

41. Respect for human rights is a fundamental matter that the Lebanese State is committed to observing and embodying in all domains.

42. The three Lebanese authorities of the Presidency of the Republic, the National Assembly and the Cabinet, together with ministers and non-governmental organizations (NGOs), are directly concerned with human rights and their protection in Lebanon and with the promotion of a human rights culture in all spheres. They do their utmost to raise the standard of laws and practices to the highest possible level in terms of harmonizing the human rights situation in Lebanon with international and regional human rights conventions, working both individually and in collaboration with one another. The National Assembly cooperates with the Cabinet and the judiciary to ensure the commitment of the Lebanese

State, pursuant to its Constitution and to international treaties and instruments, to promoting respect for human rights in all areas.

43. This cooperation among the three authorities has brought about a number of laws guaranteeing fundamental human rights and freedoms. Indeed, much effort in Lebanon has been focused on securing greater and broader protection for human rights across the board. Bills to that end have been prepared by specialized parliamentary committees, although none of them has yet been adopted owing to the difficult political situation in the country. These bills include, but are not limited to, the following:

- A bill relating to the completion and unveiling of the National Human Rights Plan (2014-2019), on 10 December 2012, which was approved by the Parliamentary Committee on Human Rights in the form of a recommendation and referred to the plenary of the National Assembly for adoption into legislation. The Plan incorporates 21 sections or subjects that are closely associated with fundamental human rights, in particular: independence of the judiciary; rules governing investigation and detention; torture and inhuman or degrading treatment; enforced disappearance; prisons and detention centres; the death penalty; freedom of opinion, expression and information; freedom of association; freedom from interference with privacy (eavesdropping); the right to employment and social security; the right to health; the right to education; the right to housing; the right to culture; the right to a safe environment; women's rights; rights of the child; rights of persons with disabilities; rights of migrant workers; social and economic rights of Palestine refugees; and social and economic rights of non-Palestinian refugees;
- A bill on the establishment of an independent national human rights institution composed of an independent national standing committee for the prevention of torture (national preventive mechanism), as required under the Optional Protocol to the Convention against Torture. The bill was adopted by the Parliamentary Committee on Human Rights and the Parliamentary Committee on Administration and Justice, on 8 April 2014, and referred to the plenary of the National Assembly;
- A bill on compulsory education;
- A bill on the care, treatment and protection of persons with mental and psychological disorders;
- A bill proposing an amendment to Act No. 422 of 6 June 2002 (Protection of Juveniles in Conflict with the Law or at Risk) in order to raise the age of criminal responsibility for juveniles, regulate social protection and consolidate the role and powers of the Ministry of Social Affairs in the area of juvenile protection.

## **I. General legal framework under which torture and other cruel, inhuman or degrading treatment or punishment is prohibited in Lebanon**

### **(a) Constitutional, criminal and administrative provisions prohibiting torture**

#### **Constitutional provisions prohibiting torture**

44. Article 8 of the Constitution, contained in the section on the rights and duties of Lebanese citizens, provides 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."

45. The enshrinement and protection of personal liberty under a constitutional provision plainly include 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.

46. Paragraph (b) of the preamble to the Lebanese Constitution also provides that: "Lebanon is Arab in its identity and belonging. It is a founding and active member of the League of Arab States and is bound by its charters. It is also a founding and active member of the United Nations Organization and is bound by its charters and by the Declaration of Human Rights. The State shall embody these principles in all fields and areas, without exception."

47. In this context, reference must be made to article 9 of the International Covenant on Civil and Political Rights, ratified by Lebanon, which is bound by the provisions and principles thereof, pursuant to Decree No. 3855 of 1 September 1972. The article provides that: "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." Article 10 of the Covenant adds that: "All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person." Article 7 of the Covenant explicitly prohibits any act of torture or cruel treatment.

48. In the same context, article 9 of the Universal Declaration of Human Rights and article 14 of the Arab Charter on Human Rights (ratified by Lebanon pursuant to Act No. 1 of 5 September 2008) provide for the same principle of respect for personal liberty and state that no one may be subjected to arrest or detention arbitrarily or without a legal warrant. Article 20 of the Arab Charter on Human Rights further states that: "All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person."

49. All these provisions of the above-mentioned international instruments and treaties enjoy the status of constitutional provisions, as affirmed by the independent legal opinion of the Constitutional Council, which held that the provisions of the Universal Declaration of Human Rights (1948), the International Covenant on Civil and Political Rights (1966), the International Covenant on Economic, Social and Cultural Rights (1966) and the Arab Charter on Human Rights have equivalent status to the provisions of the Convention.

50. The other international human rights instruments do not enjoy de jure constitutional status, although in accordance with article 2 of the Code of Civil Procedure, which is built on Kelsen's theory of the hierarchy of law, they are inferior to the Constitution but superior to ordinary legislation (laws) and to administrative rules that are inferior to the latter. 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.

#### **Criminal provisions prohibiting torture**

51. Lebanese criminal law does not specifically provide for assault as a punishable criminal offence. Acts of torture committed against persons deprived of liberty do, however, fall within the offences that are punishable under the Criminal Code. Although the Code does not explicitly mention torture as a punishable offence, it is incumbent on judges to apply its provisions to criminal acts perpetrated against persons deprived of liberty.

52. These provisions of criminal law cover the punishment for any psychological or physical torture to which a person deprived of his liberty is subjected.

**Criminal provisions punishing physical torture**

53. Investigating officers who physically torture an interviewee who is deprived of his liberty are sentenced in accordance with the following provisions of law:

1. Article 401 of the Criminal Code provides that anyone who “subjects a person to a punishment that is not permitted by law with a view to obtaining a confession to, or information about, an offence shall be liable to a penalty of imprisonment from 3 months to 3 years.” The same article further provides that: “If the violence results in an illness or injury, the minimum penalty shall be 1 year’s imprisonment”;

2. The general provisions of articles 554 to 558 of the Criminal Code punish the offences of beating, wounding or abusing a person with intent to cause harm. The penalty ranges from preventive imprisonment to criminal detention, depending on the period during which the person remains incapacitated for work as a result of the beating, wounding or abuse;

3. The general provisions of articles 547 et seq. of the Criminal Code state that, in cases where physical torture leads to killing, the perpetrator is liable to a sentence ranging from 15 years of hard labour to hard labour for life.

54. Lebanese law punishes the offence of torture, irrespective of whether the degree of violence involved was small or high and whether or not it caused pain or produced a visible injury. Torture interferes with physical integrity, thus depriving a person of willpower and consequently tainting the resulting confession.

**Criminal provisions prohibiting psychological torture**

55. Psychological torture includes the act of making any remark that has a psychological impact on a person deprived of his liberty. It encompasses all defamatory or slanderous remarks that are injurious to the dignity, honour and esteem of the person being interviewed, as well as all threats to inflict harm on him or on a family member, where the impact on him is so profound as to induce him to confess to an offence that he has not committed. Although Lebanese law does not specifically provide for the punishment of investigating officers who subject a person deprived of his liberty to psychological torture, it does currently afford the following mechanisms for punishment:

1. Where an investigating officer extracts a confession from an interviewee by making threats, he may be liable to punishment under the provisions of article 573 et seq. of the Criminal Code, which lay down the penalty for making threats with a weapon, for threatening to commit a serious offence or a misdemeanour and for threatening to cause unlawful harm to a victim. The penalty ranges from 6 months to 3 years, depending on the type and seriousness of the threat made against the victim;

2. Article 582 of the Criminal Code provides for the punishment of slander and article 584 for the punishment of defamation;

3. The acts of enticement and giving promises are deemed to be an abuse of authority punishable under article 371 of the Criminal Code, which provides for the punishment of any public official who uses his authority or influence, directly or indirectly, to obstruct or delay the application of laws and regulations, collection of dues or taxes or implementation of a judicial decision, a warrant or any order issued by a competent authority.

### **Administrative decisions prohibiting torture**

56. The administrative authorities concerned with taking administrative measures and decisions relating to the prevention of torture are those involved in the processes of investigation, trial and enforcement of criminal penalties, namely:

- The judicial authorities;
- The security authorities.

### **Administrative decisions of the judicial authorities**

57. The Lebanese judicial authorities have issued a number of decisions aimed at protecting persons deprived of liberty by way of:

- Circulars issued by the Supreme Judicial Council and the Public Prosecutor at the Court of Cassation requesting judges working in the courts and in public prosecution offices to comply fully with the rules concerning the length of detention and to respect the rights and fundamental guarantees laid down for detainees in article 47 of the Code of Criminal Procedure;
- Training courses organized for prosecuting, investigating and criminal sentencing judges on lawful investigation methods and the fundamental guarantees afforded to persons deprived of liberty.

### **Administrative decisions of the security authorities**

58. The security forces involved in the investigation of suspects or persons in custody operate under the Ministry of National Defence and the Ministry of the Interior and Municipalities, both of which strive to introduce appropriate measures for promoting the compliance of their military and security units with international humanitarian law. Each of them has issued several administrative decisions prohibiting members of the security forces from engaging in any practice of torture.

59. The view taken by the Lebanese Army, the Directorate-General of the Internal Security Forces and the Directorate-General of General Security is that any incident of torture or ill-treatment that might occur is an isolated event incompatible with their commitment to implementation of the Convention against Torture. Indeed, they make every effort to curb torture and all other violent practices and to ensure that perpetrators are duly punished.

### **Administrative decisions of the Directorate-General of the Internal Security Forces (see part XVI, sect. (b))**

60. The Directorate-General of the Internal Security Forces carefully monitors its regional units for any practice of torture and has taken various steps to combat torture by all means at hand, within the resources available, and to identify and cooperate with international efforts in the matter. These steps include the:

- Establishment of a human rights section at the Inspectorate-General of the Internal Security Forces (2008);
- Creation of a committee for monitoring torture in prisons, custody suites, detention centres and investigation facilities operated by the Internal Security Forces (2010);
- Dissemination of a code of conduct for personnel of the Internal Security Forces at a prime-ministerial function so as to underline the importance of the code (January 2012);

- Promulgation of administrative orders urging personnel to desist from all abuse of detainees and increasing disciplinary penalties for any personnel member who engages in any such practices, a policy that has started to bear fruit in that personnel attitudes are changing and few complaints are received.

61. On 9 July 2014, the Directorate-General of the Internal Security Forces also issued a service note on implementation of the Convention against Torture by its personnel. The note sets out the definition of torture contained in the Convention and requires its personnel of all ranks to comply with and implement the Convention. It further requires senior personnel to explain the provisions of the Convention to their subordinates and to monitor the activities of the latter, in particular those involved in arrest, investigation and detention procedures and those working in prisons, custody suites and courts of justice. The note clearly identifies the duties of all units of the Internal Security Forces concerned with the implementation of the Convention and states that, with the positive aim of building trust with citizens, they must coordinate their work so as to ensure that the Convention is properly implemented. The note focuses on the development of a general policy on training in criminal investigation methods and techniques and envisages training courses in combating torture for personnel of the Internal Security Forces, as well as the preparation of educational leaflets on the observance of human rights and the prevention of torture for circulation at regular intervals to the units of the Internal Security Forces.

62. Signboards in Arabic, English and French outlining the rights of detainees under article 47 of the Code of Criminal Procedure have been placed in detention centres, which is an indication of the serious intent to move forward by addressing issues relating to human rights and the prevention of torture. The article is also read out loud to detainees by Internal Security Forces personnel.

63. In early 2014, work in earnest began on establishing a unified system for filing complaints against officers of the Internal Security Forces. An in-depth study into various failings and shortcomings was undertaken and officers were familiarized with the police complaints system approved by the United Nations Office on Drugs and Crime (UNODC), following which the Directorate-General of the Internal Security Forces approved its own new advanced system for lodging complaints against its officers. This system is based on the following general principles:

- The process for lodging complaints against members of the Internal Security Forces has been simplified;
- Complaints are dealt with promptly and in a respectful and professional manner;
- The rights of the complainant and the accused person receive the same level of protection;
- Proceedings are undertaken expeditiously and efficiently;
- Investigations are transparent and impartial;
- Complainants can regularly and easily monitor the progress of their complaint;
- Statistics on the numbers and types of complaints, their outcome and the steps taken to address failings are published regularly;
- Lessons are learned from past complaints;
- There is an ongoing review and evaluation process.

64. The complaints system was officially launched at the Headquarters of the Internal Security Forces in the presence of diplomatic representatives, Lebanese donors and human rights NGOs. A service note was circulated among officers and published on the official

website of the Directorate-General, the aim being to ensure transparency and objectivity and to make it less difficult to file complaints.

**Administrative decisions of the Directorate-General of General Security  
(see part XVI, sect. (d))**

65. The instructions and guidelines issued by the Director-General of General Security for its offices and personnel clearly emphasize that detainees must be treated humanely, respectfully and appropriately.

66. The consulate of any foreign national detained in a facility or centre run by the Directorate-General of General Security is immediately notified in accordance with the directives and notes in place on the matter. The consular representatives concerned also visit the detention centre for foreign nationals and are provided with permanent entry passes and lists of the names of all nationals of theirs who are in detention.

67. The Directorate-General of General Security is working to ensure the rights of detainees in accordance with the basic international standards, in particular the right to air and natural light, in addition to the possibility of recreation and exercise. It is working in cooperation with international governmental organizations and NGOs to provide appropriate services for detainees and accommodate their rights.

68. The Directorate-General has concluded an agreement with Caritas Lebanon for the latter to supply three daily meals for each detainee, at the expense of the Directorate-General.

69. The Directorate-General also ensures that all detainees in the facility have access to drinking and bathing water, which is supplied by the Beirut Water Establishment. A filter system is used for drinking water.

70. The Directorate-General ensures full access to medical care for detainees. The clinic at the detention centre is staffed on a daily basis by a specialist doctor who is competent to examine all detainees and prescribe any necessary treatment and medication, at the expense of the administration. The medical care of detainees is a priority and those who are ill are referred to hospitals if their state of health so requires. Detainees may also be transferred to a specialist hospital, as necessary, likewise at the expense of the administration.

**Administrative decisions of the Ministry of National Defence (see part XVI, sect. (b))**

71. All investigations conducted by the military criminal investigation department (Directorate of the Intelligence Service, Military Police) are overseen by the competent judicial authorities, primarily the Military Prosecutor. The details of investigations are scrutinized by the Government Commissioner at the Military Court on an ongoing basis.

72. Suspects are detained by a decision of the Office of the Military Prosecutor for a period of 48 hours, which may be extended once only for a similar period, with the approval of the Office. Detainees are then sent before the competent court and committed thereafter to an officially recognized prison. Those not sent before a competent judge are released or leave on the strength of residency documents once the court with jurisdiction has conducted a review.

73. The Ministry of National Defence carries out regular maintenance work on its prisons to ensure that the sanitary conditions are adequate.

74. A record of detainees is kept at the Ministry of National Defence (art. 7 of Decree No. 6236 of 17 January 1995, Internal Regulations for Prisons of the Ministry of National Defence - Army Command). The information on detainees, including their health, is updated in the presence of the prison medical officer, who is a civilian and not a member of

the military. Checks are made to ascertain that prisoners are examined on a daily basis and that their health status is monitored. Clear and detailed observations are entered in the patients' register by the medical officer, as well as by the nurse, and appropriate treatment is provided. The medical personnel are familiar with the Istanbul Protocol, specifically with respect to medical procedures involving detainees.

75. The Army Command provides every facility for enabling representatives of the International Committee of the Red Cross to interview and examine detainees, as well as inspect prison conditions, without monitoring and without time limits, in accordance with the provisions of Decree No. 8800 of 17 October 2002.

**(b) International treaties prohibiting torture to which Lebanon has acceded**

76. Lebanon has acceded to international treaties containing obligations not to torture persons deprived of liberty, notably:

- The Universal Declaration of Human Rights, which ensures the protection of life and physical integrity;
- The International Covenant on Civil and Political Rights, which Lebanon ratified and made the commitment to respect its provisions and principles pursuant to Decree No. 3855 of 1 September 1972;
- Protocols I and II Additional to the Geneva Conventions, relating to the protection of victims of international armed conflict, which Lebanon ratified pursuant to Act No. 613 of 28 February 1972);
- The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which Lebanon ratified pursuant to Act No. 185 of 24 June 2000;
- The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which Lebanon ratified pursuant to Act No. 12 of 5 September 2008.

**(c) Status of the Convention against Torture in the Lebanese legal order (with respect to the Constitution and the ordinary legislation)**

77. Article 2 of the Code of Civil Procedure provides as follows:

“The courts shall comply with the principle of the rules of hierarchy.

“In the event of conflict between the provisions of international treaties and those of ordinary law, the former shall take precedence over the latter.

“Courts may not declare null the activities of the legislative authority on the grounds of inconsistency of ordinary laws with the Constitution or international treaties.”

78. The above-mentioned article 2 clearly indicates the legal status of the Convention against Torture with regard to the Lebanese Constitution and the ordinary legislation, or laws. It can be summed up as follows:

1. The Convention against Torture has superior legal force to the provisions of ordinary laws but inferior legal force to the provisions of the Constitution;
2. The Lebanese courts (administrative courts and ordinary courts) may not declare that laws enacted by the legislative authority are null on the grounds that they are inconsistent with international treaties or the provisions of the Constitution, although they may exclude the application of a provision of domestic law where it is inconsistent with a provision of the Convention. In short, the power to declare that a



law is unconstitutional lies within the exclusive jurisdiction of the Constitutional Council.

**(d) How Lebanese laws ensure the non-derogability of the prohibition of any cruel, inhuman or degrading treatment or punishment**

79. Justifications that might be advanced by the security authorities for derogating from the prohibition of any cruel, inhuman or degrading treatment or punishment are:

- Exceptional circumstances, such as a state of war, a threat of war, internal political instability or any other state of emergency;
- An order from a superior officer or a public authority.

80. First, with respect to exceptional circumstances, Lebanon is well known as a country that has been, and remains, vulnerable to terrorist crimes, which include bombings in the regions, Ain Alaq and the southern suburbs, bombings targeted at political and security figures, and the Nahr el-Bared war crimes. The official security agencies and judicial organs in Lebanon have therefore had to double their efforts in order to take the measures needed to combat the terrorism endangering national security and public safety.

81. There is no specific anti-terrorism law in place in Lebanon, where crimes of terrorism are instead prosecuted under the ordinary laws. No state of emergency has been declared in Lebanon since the time of the Taif Agreement in 1989. In the event that one were to be declared, the reduction of certain freedoms would be permitted but torture would not.

82. In the case of war, the Army applies the norms and principles of international humanitarian law, which have been incorporated into military regulations and directives and are covered by military training programmes at all levels. Any breach of these principles renders the offender liable to disciplinary measures and criminal penalties.

83. As part of safeguarding public security and order, the obligation to respect the personal liberty of persons suspected or accused of terrorist offences or of undermining public security and public safety is a fundamental matter to which the Lebanese State attaches particular importance, especially as the protection of personal liberties and fundamental human rights is a key constitutional requirement that must be observed and embodied in all spheres. The fight against terrorism and the maintenance of security may not be used as a legitimate excuse for infringement of this sacred liberty. Hence, there is nothing in Lebanese law that permits any of the country's authorities to engage in any act of torture or other cruel, inhuman or degrading treatment or punishment, whatever the circumstances, in any security situation or under any other pretext.

84. Secondly, with respect to orders from a superior officer or public authority, Lebanese law permits a subordinate to refuse to carry out such an order if it is unlawful or illegal. Investigations by criminal investigation officers involving persons deprived of liberty are conducted under supervision of the competent judicial authorities, which guarantees the legitimacy of the investigation methods and ensures that no wrongdoing is committed by security personnel.

85. In addition to the above, the Directorate-General of the Internal Security Forces and other security authorities entrusted with law enforcement run training courses for their personnel, sometimes with the support of civil society organizations, on the legitimacy of investigation methods and the legal means available. Emphasis is placed on the fact that an order to commit torture is unlawful and does not have to be carried out, even if given by a superior officer.

- (e) **Whether the provisions of the Convention can be invoked before and are directly enforced by the Lebanese courts or administrative authorities or whether they have to be transformed into internal laws or administrative regulations to be enforced by the authorities concerned**

**1. Whether the provisions of the Convention can be invoked before the Lebanese courts or administrative authorities**

86. The Lebanese courts have applied the provisions of the Convention against Torture in trial proceedings involving refugees of various nationalities pursuant to article 32 of the Entry, Stay and Exit Regulation Act (promulgated on 10 July 1962 and amended by Act No. 173 of 14 February 2000), which provides for the expulsion of foreign nationals who enter into Lebanon without passing through a Lebanese General Security checkpoint.

87. The Lebanese judiciary has played an important role in safeguarding the rights of refugees since 2010, when article 3 of the Convention against Torture first began to be applied in court decisions relating to non-Palestinian refugees to prevent their removal from Lebanon if their lives were at risk in their own country.

88. The Directorate-General of General Security is the administrative authority in charge of the entry of foreign nationals into Lebanon, in addition to their stay and exit, and is empowered in some instances to decide that a foreign national should be expelled from the country. With the emergence of the crisis of Syrian displaced persons, however, it has committed to applying the provisions of international conventions, in particular article 33 of the Convention Relating to the Status of Refugees of 1951, even though Lebanon is not a signatory thereto, and article 2 of the Convention against Torture. Consequently, it has not expelled any foreign nationals from Lebanon or handed them over to their countries of origin if their lives would be at risk as a result.

**2. Whether the provisions of the Convention are directly enforced by the courts or administrative authorities or whether they have to be transformed into internal laws or administrative regulations to be enforced by the authorities concerned**

89. Looking at the substance of the Convention, it is evident that most of its provisions place obligations on States to implement them so as to combat and prevent torture. When the Convention first took effect in Lebanon, relatively few of its provisions were directly applicable within the framework of Lebanese law. The Lebanese State therefore had to take legislative, legal and administrative measures to ensure implementation of the provisions of the Convention.

**(f) The legislative act incorporating the Convention into the domestic legal order**

90. Lebanon ratified the Convention against Torture pursuant to Act No. 185 of 24 June 2000 and, under article 2 of the Convention, is obligated to take “effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.”

91. Under article 4 of the Convention, the State also undertook to ensure that “all acts of torture are offences under its criminal law. The same shall apply to an attempt to commit torture and to an act by any person which constitutes complicity or participation in torture.” It further undertook to “make these offences punishable by appropriate penalties which take into account their grave nature.”

92. In the face of these international obligations, the official authorities and civil society in Lebanon found that action was needed to respond to and implement the requirements placed on them. Following numerous discussions, the Parliamentary Committee on Human Rights adopted a proposed amendment to article 401 of the Criminal Code, which defines

the offence of torture and lays down appropriate penalties for it in line with the Convention. It also adopted a proposed amendment to articles 10 and 24 of the Code of Criminal Procedure, relating to the prescription period and the extinguishment of criminal judgements. To date, however, these amendments are still tabled on the agenda of the National Assembly, which has been unable to approve them on account of the prevailing security and political situation that has led to postponement of the legislative meetings of the National Assembly.

**(g) Judicial or administrative authorities with jurisdiction covering matters dealt with in the Convention against Torture**

93. The Constitutional Council is the appropriate authority competent to monitor the applicability of laws adopted by the National Assembly to the provisions of the Constitution. As part of promoting the efforts to combat and prevent torture, the Council may declare that any law enacted by the legislative authority is unconstitutional in the event that it conflicts with the provisions of the Lebanese Constitution relating to protection of the personal liberty of residents in Lebanese territory (be they Lebanese or foreign nationals).

94. The ordinary courts are competent to hear any dispute between individuals and are divided into two main branches, namely the civil and criminal courts.

95. The ordinary courts are fully empowered to consider financial compensation for injury caused by perpetrators of torture to persons deprived of liberty, in accordance with the provisions on civil liability set out in the Code of Obligations and Contracts.

96. The criminal courts are empowered to prosecute, investigate, try and sentence judicial police officers from the Internal Security Forces, the Public Security Service, the State Security Service and the Customs Service who commit torture. In a subsidiary role closely associated with public prosecutions, they are also empowered to award compensation to victims of torture.

97. Public prosecutors in Lebanon are judges who are members of the judiciary. They oversee investigations conducted by judicial police officers and refer suspects for investigation or trial. Every governorate has its own Public Prosecution Office at the Court of Appeal, headed by a prosecutor, who is assisted by advocates-general. All of these Offices function under the authority of the Public Prosecution Office at the Court of Cassation, which is headed by a public prosecutor at the Court of Cassation, who is assisted by advocates-general at the Court of Cassation.

98. The administrative judiciary, represented by the State Consultative Council, considers the lawfulness of administrative decisions and decrees issued by the executive branch in cases where they are inconsistent with the provisions of laws and international conventions.

99. The Military Court is an extraordinary court empowered to deal with any offence committed by security personnel. Pursuant to article 27 of the Code of Military Justice, it is within the jurisdiction of the Military Court to prosecute and investigate all offences committed by such personnel, including torture, and to punish the offenders.

100. The administrative authorities in charge of police and prison administration are represented by the Ministry of the Interior and Municipalities and the Ministry of National Defence. The administration of the Civilian Prisons Department (currently run by the Ministry of the Interior and Municipalities) is now in the process, however, of being transferred to the Ministry of Justice.

**National institutions for the promotion and protection of human rights.**

101. The Parliamentary Administration and Justice Committee and the Parliamentary Committee on Human Rights unanimously agreed to propose a bill on the establishment of a national human rights institution, including a national preventive mechanism, as agreed by Lebanon under the Optional Protocol to the Convention against Torture. This proposed bill is included in the agenda of the National Assembly.

102. In 2012, the National Human Rights Plan (2014-2019) was launched, covering such subjects as: rules governing investigation and detention; torture and inhuman or degrading treatment; prisons and detention centres; enforced disappearance; and the death penalty.

**(h) Practical implementation of the Convention at the federal, central, regional and local levels in Lebanon and difficulties affecting implementation**

103. The steps for practical implementation of the Convention against Torture at all levels will be explored in detail in the subsequent parts of this report.

104. As to difficulties, they essentially relate to the political and security situation and to the Syrian refugee crisis, which have together brought the work of the executive and legislative institutions and authorities to a halt.

**II. Measures giving effect to the Convention against Torture in Lebanon****(a) Legislative, judicial, administrative or other measures giving effect to the Convention****Legislative measures giving effect to the Convention**

105. The only way in which the provisions of the Convention could be given effect was for the legislature to enact a law signalling its approval and adoption of those provisions. The National Assembly consequently ratified and gave effect to the Convention against Torture pursuant to Act No. 185 of 24 May 2000.

**Judicial measures giving effect to the Convention**

106. Once the Convention had entered into force pursuant to Act No. 185 of 2000, the Lebanese judiciary became more sensitized to the topic of prohibiting and preventing torture and supervising the activities of judicial police officers involved in investigating persons deprived of liberty.

107. Preliminary investigations and inquiries conducted by judicial police officers are overseen by prosecutors, who apply and observe the following legal rules and principles:

- (i) The rights of persons deprived of liberty, in particular those provided for in article 47 of the Code of Criminal Procedure, must be respected (see part IV, sect. (a), for information concerning these rights and guarantees);

The Public Prosecutor at the Court of Cassation may supervise judicial police officers in the performance of their duties as assistants to the Public Prosecution Office. He may make such observations as he sees fit to their supervisors regarding that performance and may call upon the competent Public Prosecution Office to prosecute any officer who commits an offence during the performance of his duty, without having to obtain prior permission;

- (ii) Judicial police officers may not carry out any action, investigation or procedure in respect of any person except under judicial supervision and nor may

they apprehend any person except by a decision of the competent judicial entity, in this case the competent prosecutor (arts. 15-16, 38-42 and 46-48 of the Code of Criminal Procedure);

(iii) The period of police custody during the preliminary investigations conducted by judicial police officers under the supervision of prosecuting judges may not exceed 48 hours and may be extended for a further 48 hours by a reasoned decision of the Public Prosecutor in the case of minor and serious offences alike (arts. 32, 42 and 47 of the Code of Criminal Procedure);

(iv) No one may be held in police custody unless the penalty for the offence is imprisonment of 1 year (art. 46 of the Code of Criminal Procedure).

108. With regard to investigating and sentencing judges, if a detainee states before an investigating judge or a court of first instance that he was subjected to torture during preliminary investigations, the following measures are taken:

(i) Investigations to determine the veracity of the detainee's statements are conducted (a forensic pathologist is designated to confirm any physical or mental injury sustained by the detainee; statements are taken from the judicial police officers accused of having engaged in torture and from any witness named by the detainee who was the victim of the torture; and any other investigative procedures needed to corroborate the victim's statements are carried out);

(ii) Once it has been established that torture took place, or indeed if there are serious doubts concerning its occurrence, the judge (whether an investigating judge or a sentencing judge) refers the papers to the Public Prosecution Office for the completion of procedures and prosecution of the offending officers;

(iii) Under Lebanese law, if torture is established to have occurred, the record of any questioning carried out under torture is nullified and is not relied upon as evidence for the prosecution.

#### **Administrative measures giving effect to the Convention**

109. Administrative measures giving effect to the provisions of the Convention consist in the organization of training courses and the preparation of administrative circulars for judges and law enforcement personnel (judicial police officers) concerning the need to comply with the fundamental safeguards for persons deprived of liberty and to refrain from practices involving physical or psychological torture.

#### **(b) Procedures in the Lebanese justice system for handling cases involving torture**

110. There are no special procedures in the Lebanese justice system for handling cases involving torture practised by law enforcement officials.

111. The work of addressing the offence of torture is subject to the general rules concerning investigation, prosecution and trial procedures with respect to the offences provided for in the Criminal Code and other criminal laws. Torture offences are handled and addressed on an individual basis, although the Lebanese Government is working hard to institutionalize the process through the development of a legal system for dealing with all cases involving torture and related offences.

### **III. Definition of torture in Lebanese law (art. 1 of the Convention)**

**(a) Definition of torture in Lebanese law and its conformity with the definition set out in the Convention against Torture**

112. Lebanese law does not specifically define torture or identify any of its components, although numerous provisions of various laws (the Criminal Code and the Code of Criminal Procedure) emphasize respect for human rights in general and for the rights of persons deprived of liberty, irrespective of the charges against them. There is nothing in Lebanese law to justify any infringement of the rights of detainees by individuals or by any State security or military institution.

113. An amendment law proposed with the aim of introducing penalties for torture and other cruel, inhuman or degrading treatment or punishment provides in article 1, amending article 401 of the Criminal Code, for a definition of torture, stating as follows:

114. “Article 401 of the Criminal Code shall be amended to read as follows:

“For the purposes of this Code, torture means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person by or at the instigation of or with the explicit or implicit consent of a public official or other person acting in an official capacity during inquiries, preliminary investigations, judicial investigations and trials, particularly in order to:

- “Obtain from him or a third person information or a confession;
- “Punish him for an act he or a third person has committed or is suspected of having committed;
- “Intimidate or coerce him or a third person to undertake or to refrain from undertaking a specific action;
- “Inflict on him such severe pain or suffering for any reason based on discrimination of any kind.

“The above definition does not include severe pain or suffering arising from, inherent in or incidental to lawful sanctions.”

115. The newly-proposed definition of torture is consequently in conformity with article 1 of the Convention. Tremendous progress has been made in the parliamentary discussions on the proposed amendment of the Code, which has been approved by the Parliamentary Administration and Justice Committee and referred to the plenary of the National Assembly.

**(b) Legislative or criminal provisions covering cases of torture in the absence of a definition of torture in domestic law in conformity with the Convention**

116. It is a well-known fact that any torture committed in the context of judicial investigations may cause two kinds of injury:

- Physical injury;
- Mental injury.

117. The offence of torture is therefore punishable if the criminal act that constitutes it is punishable under the general provisions of Lebanese law, such as those laying down penalties for beating or causing harm or injury, or those punishing slander, defamation, use of threat, vilification and so forth.

118. Torture practised against persons deprived of liberty is thus a punishable offence under the Criminal Code. While the Code does not specifically refer to torture as a punishable offence, the fact remains that judges must apply its provisions to criminal acts perpetrated against persons deprived of liberty.

119. As stated in part I, section (a), these criminal provisions cover the punishment of psychological or physical torture to which a person deprived of liberty is subjected. The offences concerned are essentially those provided for in the Criminal Code under article 401, articles 554 to 558 (intentionally causing harm), article 547 et seq. (deliberate killing), article 573 et seq. (use of threat), article 584 (slander), article 582 (defamation) and 371 (enticement and giving promises).

#### **IV. Effective measures to prevent acts of torture (art. 2 of the Convention)**

##### **(a) Effective measures to prevent torture**

120. Through the Criminal Code and the Code of Criminal Procedure, the Lebanese justice system ensures that the rights of detainees and prisoners are legally protected and guarantees that persons deprived of liberty are treated humanely and appropriately. It encompasses legal provisions with respect to the duration of police custody, incommunicado detention, safeguards and the basic rights of persons deprived of liberty.

##### **1. Duration of preventive custody in police stations and army bases**

121. Personal freedom is guaranteed by the Constitution. Hence, any restriction on personal freedom must be narrowly interpreted and applied in a limited way.

122. The Code of Criminal Procedure clearly and explicitly provides that personal freedom must be respected. It thus controls and contains the actions of judicial police officers and fixes the period during which a person may be held in custody in connection with the preliminary investigation by judicial police officers. This period may not be altered or exceeded.

123. The Lebanese judiciary remains fully committed to compliance with the legal rules concerning the period of detention and the conditions to be satisfied in order for a person to be held in custody.

124. The work of the judicial police is overseen by prosecuting judges, who also monitor compliance with the legal rules and principles governing the period of preventive custody during preliminary investigations. Judges, specifically prosecuting judges, take care to ensure that the 48-hour period of police custody during preliminary investigations is not exceeded. The period may be extended for a further 48 hours by a reasoned decision of the Public Prosecutor in the case of minor and serious offences alike (arts. 32, 42 and 47 of the Code of Criminal Procedure).

125. The Lebanese judiciary is also fully committed to compliance with the conditions set for detention in that no decision is taken to hold a person in police custody unless the penalty for the offence is imprisonment of 1 year (art. 46 of the Code of Criminal Procedure)

126. Judicial police officers who infringe these legal provisions and principles are held to account and prosecuted for the offence of deprivation of liberty provided for in article 367 of the Criminal Code. Disciplinary measures are also imposed (as expressly provided for in articles 367-369 of the Criminal Code, articles 48 and 107 of the Code of Criminal Procedure and articles 30 and 37 of Decree No. 14310 concerning the regulation of prisons and detention centres).

127. It must be emphasized here that, by law, investigations and inquiries may be conducted by the security agencies only under the supervision and instructions of the judiciary. Judicial police officers may not carry out any action, investigation or procedure in respect of any person except under judicial supervision and nor may they apprehend any person except by a decision of the competent judicial entity, in this case the competent prosecutor (arts. 15-16, 38-42 and 46-48 of the Code of Criminal Procedure).

## **2. Incommunicado detention**

128. Incommunicado detention is an exceptional measure taken at the discretion of the prison warden in the interest of protecting the safety of prisoners or that of the person concerned. It is not used as a form of retaliation by prison guards but rather as a disciplinary measure against prisoners who breach prison rules. It is regulated in a clear legal framework and is included in prison regulations, notably in article 101 et seq. of the decree regulating prisons, detention centres and juvenile correctional and educational facilities (Decree No. 14310 of 11 February 1949).

129. A prisoner is placed in solitary confinement for the following breaches of discipline:

- Quarrelling and fighting with other prisoners;
- Failing to observe the rules on sanitation and hygiene or refusing to work;
- Interfering with equipment and buildings;
- Attempting to escape;
- Rioting, engaging in disobedience or otherwise infringing prison regulations.

130. The power to impose solitary confinement as a disciplinary measure is restricted to prison officers of a certain rank. The duration of such confinement is limited to between 4 and 30 days (if imposed by the Commander of the Gendarmerie).

## **3. Rules governing the rights of arrested persons to a lawyer, a medical examination, contact with their family etc.**

131. The Code of Criminal Procedure of 2001 is based on the principle of the presumption of innocence, meaning that every accused person is innocent until proved guilty. In order to implement this principle, it was essential to establish fundamental rights and safeguards for arrested persons detained in custody while being investigated.

132. The safeguards accorded to arrested persons deprived of liberty may be general safeguards associated with the rights recognized for all arrested persons. The status of persons under arrest may also be taken into account, such as whether they are minors, foreign nationals or female.

### **General rights recognized for all persons deprived of liberty**

133. Article 47 of the Code of Criminal Procedure is the key text establishing the rights to be afforded to detainees before they undergo any investigation. This article provides as follows: "Judicial police officers, acting as assistants to the Public Prosecution Office, shall perform the duties assigned to them by the Public Prosecution Office, investigating offences falling outside the category of in flagrante, collecting information about them, and making inquiries aimed at identifying the perpetrators and participants and gathering evidence against them. They also carry out actions necessitated by these duties, such as the impounding of incriminating items, the conduct of physical searches of crime scenes, the scientific and technical analysis of any traces and signs, and taking statements from witnesses without requiring them to take an oath and from persons complained of or suspects." Where persons complained of refuse to make a statement or remain silent, it



further provides that “this fact shall be mentioned in the record and they may not be coerced to speak or to undergo interrogation, on penalty of nullity of their statements.” In addition, it provides that when a suspect is taken into custody for investigation purposes, the judicial police officer conducting the investigation must promptly inform him of his rights and that this procedure must be noted in the record. These rights enable him to:

- Contact a member of his family, his employer, a lawyer of his choosing or an acquaintance;
- Meet with a lawyer whom he appoints by a declaration noted in the record, without the need for a properly drafted power of attorney;
- Ask for the assistance of a sworn interpreter if he is not proficient in the Arabic language;
- Submit a request for a medical examination, either directly or through his counsel or a member of his family, to the Public Prosecutor, who must appoint a physician as soon as the request is submitted. No judicial police officer may be present when the examination is carried out by the physician, who 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 requester by the Public Prosecutor upon receipt thereof. The person being held in custody and any of the above-mentioned persons may request a new examination if the period of custody is extended.

134. On the basis of the aforementioned article 47 of the Code of Criminal Procedure and other articles concerning the rights and powers of the judicial police in conducting an investigation, the rights enjoyed by arrested persons may be summed up as follows.

**(i) Right of a detainee to have the investigation conducted by the authority competent by law to perform that function**

135. The Public Prosecution Office is essentially and primarily the authority empowered to carry out investigations involving detained persons. On most occasions, however, it instructs the judicial police to conduct investigations under its supervision and with its knowledge.

136. The judicial police may not therefore question a detained person or carry out any investigative procedure in connection with such person unless instructed to do so by the competent public prosecutor.

137. Accordingly, if the judicial police has received no indication from the Public Prosecutor that it may investigate a detained person, it cannot direct any questions to that person. A person held in custody has the right to challenge any procedure carried out by the judicial police without authorization from the competent authority.

**(ii) Right of a detainee to be promptly questioned without delay**

138. A detainee has the right to be promptly questioned without delay, which is a right derived from various provisions of the Code of Criminal Procedure, particularly those contained in the section devoted to the powers of the investigating judge, whose task it is to question a detainee “forthwith” (arts. 107 et seq., concerning detention and the duration thereof).

139. The right of a detainee to be promptly questioned essentially means that swift action must be taken to question him and may not be delayed without a legitimate reason. At the same time, the identity of the detainee must be confirmed in order to determine that he is the person whom it is intended to question and thus protect innocent persons from measures being taken against them unlawfully.

**(iii) Right of a detainee to be informed of the nature of the offence with which he is charged and of the evidence and proof that led to the charge against him**

140. After fully establishing a detainee's identity, the investigating officer is required to inform him of all the charges against him, making sure not to overlook any fact that gave rise to the investigation.

141. Simply to inform a detainee of the charge against him is not enough, however, as he must also be told about the evidence of the charge against him that revealed his connection with the offence concerned. Such information must be accurate and intact, failing which the investigating authority's explanation of the offence is deemed unreliable and the questioning is rendered null and void. This does not imply that the investigating officer is required to give a detailed account of the facts attributed to the detainee, as it is sufficient for him to provide only a brief outline.

142. Nor is the investigating officer required to provide the detainee with a legal qualification of those facts, as it may be that circumstances emerge to change that qualification. It is clearly important to inform the suspect of the offence he has allegedly committed and of the evidence against him, as to do so is vital to the validity of statements and confessions later made by the detainee. Furthermore, it enables the detainee to prepare his defence himself or, if necessary, through his counsel, as he is unable to contest the evidence against him and defend himself unless he has been informed of the allegations against him.

**(iv) Right of a detainee to seek the assistance of a lawyer**

143. Observance of the right of defence for detainees means that they may exercise their right to seek the assistance of a lawyer to defend them, regardless of whether or not the offence was witnessed.

144. The Code of Criminal Procedure establishes the right of a detainee to seek the assistance of a lawyer, notably in article 47, which enshrines the detainee's right to meet with a lawyer whom he appoints by a declaration noted in the record.

145. Under article 47, the presence of a lawyer is deemed to be in accordance with the rules and lawful, even without a properly drafted power of attorney.

**(v) Right of a detainee to make a telephone call**

146. A detained person has the right to make a telephone call to a member of his family, his employer, a lawyer of his choosing or an acquaintance. This right is enshrined in article 47 of the Code of Criminal Procedure and a detained person is thus assured of communication with a member of his family, his employer, his lawyer or an acquaintance in order to let them know that he is in custody, inform them of the location and conditions in which he is being held and ask for their assistance, where possible.

**(vi) Right of a detainee to request a medical examination**

147. A detained person has the right to request a medical examination if he is suffering from a particular disease or a health complaint. Such requests are submitted by the detainee's lawyer or by a member of his family to the Public Prosecutor, who must immediately appoint a physician to attend to him without delay.

148. No judicial police officer may be present while the detained person is being examined by the physician, who must submit his report to the Public Prosecutor within 24 hours.

149. The detained person is entitled to receive a copy of the report prepared by the physician appointed by the Public Prosecution Office.

150. If the Public Prosecutor decides to extend the period of custody to four days, the detained person may request another medical examination. This right to a second medical examination is vitally important in promoting the rights of persons in detention, particularly as the examination can establish whether the detainee has been subjected to any kind of physical or mental coercion.

**(vii) Right of a detainee to remain silent and refuse to speak**

151. It is a principle of law that a detained person has full freedom to defend himself. On that basis, he may therefore do so by either speaking or by declining to answer questions put to him.

152. Article 47 of the Code of Criminal Procedure enshrines the right of a detained person to remain silent and states that if persons complained of either refuse to make a statement or remain silent, it must be noted in the record. It also states that judicial police officers may not compel such persons to speak or undergo questioning, on pain of nullity of their statements.

153. In accordance with this provision, no interviewer may use physical or mental coercion to compel a detained person to make a statement. On the contrary, the interviewer must scrutinize and thoroughly examine the available evidence and proof without in any way influencing the will of the person being interviewed.

**(viii) Right of detainee not to take an oath**

154. Article 47 of the Code of Criminal Procedure prohibits the judicial police from requiring witnesses to take an oath. It does not, however, provide that they must refrain from requiring a detained person who has allegedly committed an offence to take an oath.

155. It is nonetheless only reasonable from the legal standpoint for investigating officers, whether members of the judicial police or judges, to refrain from requiring a detainee to take an oath. It also demonstrates respect for the detainee's right of defence, which stems from the presumption of innocence afforded to him.

156. The fact that a detained person is not required to take an oath is a key safeguard of individual liberty, which is a principle that must be strictly observed, even if the detained person has a previous criminal record or if there are strong suspicions against him. Accordingly, no investigating officer may require a detained person whom he is questioning to take an oath to tell the truth, as to do so would constitute an infringement of his freedom to defend himself and make statements, in addition to causing him discomfort.

157. Requiring a detained person to take an oath is a way of influencing his will. In short, to give an oath to a suspect who then takes it is tantamount to psychologically coercing him to tell the truth, which invalidates the questioning.

158. If, during questioning, a detained person takes an oath of his own accord, it is not deemed to restrict his freedom to make statements. On the contrary, it is seen as a means of defence designed to build confidence in the truth of his statements.

**Special rights afforded to some detainee categories (women, children and foreign nationals)**

159. By reason of their particular status, some detainee categories, such as minors, women and foreign nationals with little knowledge of Arabic, require special treatment and the benefit of other rights in addition to the general rights afforded to all detainees. The

judicial police must therefore observe various other rights when conducting investigations involving any of these categories so as to take account of their particular status.

**(i) Obligation to respect the guarantees provided under the Act on the Protection of Juveniles in Conflict with the Law or at Risk**

160. The judicial police are required to respect the guarantees and rights established for minors under the Act on the Protection of Juveniles in Conflict with the Law or at Risk.

161. When conducting an investigation involving a juvenile, the investigating officer must adhere to the principles set out in article 2 of the Act, which are as follows:

- Investigating officers must remain mindful of the fact that any juvenile under investigation needs special help to equip him for his role in society;
- Juveniles in conflict with the law must be treated fairly and humanely, with every possible effort made to ensure that they are spared judicial proceedings by arriving at settlements, amicable solutions and non-custodial measures;
- Investigating officers must not intimidate juveniles and are to ensure by all available means that juveniles feel psychologically at ease during questioning;
- Juveniles must not be detained with adults;
- Any investigation involving a juvenile must remain confidential. It is not permitted to disclose the fact that a juvenile has allegedly committed an offence or any details of his actions (arts. 33 and 40 of the Act);
- Where a juvenile is brought before the Public Prosecution Office or the judicial police in connection with the investigation of a witnessed offence, the investigating officer must immediately:
  - Notify, where possible, the juvenile's family, guardians or those responsible for him;
  - Call the designated social worker to present himself for the investigation, which he is required to do within six hours of being contacted. The investigation may not begin unless the social worker is present, failing which he is liable to disciplinary action. If it is impossible for him to attend for any reason, the Public Prosecution Office or the Department for Juveniles at the Ministry of Justice must designate a social worker from an association accredited to the Department to accompany the juvenile during the investigation. In addition to attending the investigation, the social worker must produce a social report and present the findings to the officer responsible for investigating the juvenile.

**(ii) Obligation to respect the special physical and psychological nature of women as distinct from that of men**

162. Judicial police officers carrying out an investigation must take into account the fact that women's physical and psychological nature is distinct from that of men and treat women fairly on that basis so that their rights are respected equally with those of men. Officers must therefore:

- Treat women respectfully;
- Desist from any severe or violent treatment of women, thereby taking into account women's right to physical integrity and the difference between women's physical strength and their own;

- Refrain from directing any comments at women that undermine their dignity or injure their self-esteem.

**(iii) Obligation to respect the rights of foreign nationals, notably with regard to language differences and non-racial discrimination**

163. Investigating officers must observe the following in dealing with foreign nationals:

- Respect their right to the services of a sworn interpreter if they are not proficient in Arabic;
- Treat them with humanity and without any racial discrimination between them and Lebanese detainees;
- Accord to them all the same rights as those accorded to Lebanese detainees so as to guarantee their right to defend themselves.

**(iv) Emergency or anti-terrorist legislation restricting the guarantees of a detained person and measures ensuring that no exceptional circumstances are invoked so as to derogate from the right not to be subjected to torture**

164. The Lebanese State is faced with exceptional security and political circumstances. Lebanon has fallen prey to crimes of terrorism and today remains vulnerable to such crimes, which endanger public security and lives.

165. In Lebanese law, there is nothing that permits any authority to engage in any act of torture or other cruel, inhuman or degrading treatment or punishment, whatever the circumstances, in any security situation or under any other pretext (see part I, sect. (d)).

**(b) Assessment of the effectiveness of the measures taken to prevent acts of torture, including measures to ensure that those responsible are brought to justice**

166. The effectiveness of the measures taken to prevent the practice of torture can be assessed only through evaluating the mechanisms for accountability in the event of failure to adhere to those measures and the findings of the accountability process in place.

167. In this sphere, the Lebanese judiciary hands down guilty verdicts against security service personnel who commit torture in cases where a victim lodges a complaint of torture and there is sufficient evidence to satisfy the court that the offence took place (the ruling given by the Beirut Misdemeanours Appeal Court on 14 March 2013 may be consulted for guidance in this respect).

168. Where the criminal courts are presented with evidence that a detainee has been subjected to torture for the purpose of obtaining a statement, a forensic pathologist is appointed to confirm that fact and the file is referred to the competent judicial authorities for investigation (see part VI, sect. (b), final paragraph).

**(c) Prohibition on orders to commit torture**

**1. Legislation and jurisprudence with regard to the prohibition on invoking superior orders, including orders from military authorities, as a justification of torture, and the practical implementation of such legislation and jurisprudence**

169. In Lebanese legislation, there is nothing that explicitly permits any member of the security services to invoke an order from a higher authority as a justification for carrying out an act of torture.

170. An unlawful order issued by an authority does not constitute grounds for relieving a judicial police officer from criminal responsibility in the event that he has committed an act

of torture, as article 185 of the Lebanese Criminal Code provides that: “An act undertaken pursuant to a legal provision or in response to a lawful order issued by an authority shall not be regarded as an offence. If the order issued is unlawful, the person who executes it shall be exonerated if the law did not permit him to ascertain its legality.”

171. It is therefore established from Lebanese law, which punishes acts of torture that are by nature unlawful, and from the circulars issued by the Directorate-General of the Internal Security Forces and the Directorate-General of General Security, that a superior order given to a subordinate to carry out acts of torture is unlawful and illegal.

172. Consequently, as long as the security authorities have recognized the unlawfulness of torture by way of written notes and circulars addressed to their personnel, any member of the Internal Security Forces or General Security is in a position to ascertain the lawfulness of an order given by his superior. In this case, the order of the superior does not provide grounds for exempting him from criminal responsibility for the commission of an unlawful act of torture.

**2. Right of a subordinate to oppose an order to commit acts of torture, the recourse procedures available to him and information on any such cases that may have occurred**

173. The personnel of the Directorate-General of the Internal Security Forces and the Directorate-General of General Security may, in accordance with the legal provisions governing their activities, determine the lawfulness of orders given to them. A subordinate is thus entitled to refuse to carry out an order from his superior to subject a person deprived of liberty to torture.

**3. Impact of the position of public authorities with respect to the concept of “due obedience” as a criminal law defence on the effective implementation of this prohibition**

174. Although “due obedience” is a principle enshrined in the rules applicable to the Lebanese authorities so as to ensure the proper functioning of the security institutions, an exception to that principle is created in cases where an order to be obeyed is unlawful in character.

175. It is therefore recognized that personnel of the Directorate-General of the Internal Security Forces and the Directorate-General of General Security are entitled to disobey their superiors where a given order is unlawful in character.

176. The latest training for law enforcement officials in Lebanon clearly conveys the message that any order to commit torture is unlawful, even if given by a superior.

**V. Prohibition of the extradition of persons to States that engage in torture (art. 3 of the Convention)**

**(a) Lebanese legislation prohibiting the expulsion, return or extradition of a person to a State where he might be tortured**

177. Lebanese legislation does not clearly state that the extradition, expulsion or return of a person to his country will be refused if there is danger that he might be tortured in that country. Article 34 of the Criminal Code, however, provides that suspects may not be extradited in the following cases:

1. If it is requested in connection with a political offence or if it appears to serve a political aim;

2. If the accused was enslaved in the territory of the requesting state;
3. If the penalty applicable under the law of the requesting state is contrary to the established social order.

178. In addition to the provisions of domestic law, the Lebanese Government has ratified international bilateral treaties with various States (Turkey, Cyprus and Armenia) on combating terrorism and promoting judicial cooperation with respect to the extradition of suspects in such cases. Of these international treaties, the most important is perhaps the Arab Convention on the Suppression of Terrorism, signed in Cairo on 22 April 1998 and ratified by Lebanon pursuant to Act No. 57 of 31 March 1999. Arab Ministers of Justice and the Interior, including those from Lebanon, have held meetings to consider implementing measures and models with a view to ensuring proper implementation of the Convention by signatory Arab States. The most recent meeting was held on 10 November 2014 and covered the extradition of suspects and compliance with the international norms on the subject.

**(b) Impact of legislation and practices concerning terrorism, emergency situations or national security on the effective implementation of this prohibition**

179. The Lebanese authorities are fully committed to refusing the extradition of any foreign national to his home country if there is fear that he may be subjected to torture in that country.

**(c) Authorities determining the extradition, expulsion, removal or refoulement of a person and on the basis of what criteria**

180. The Lebanese Criminal Code spells out the rules and conditions that must be observed with respect to the extradition of a suspect by the Lebanese State to another State. Article 30 of the Code provides, however, that its provisions are not applicable if there is an international treaty in place that carries the force of law.

181. On the basis of the provisions of the Criminal Code, the process of extraditing suspects to their countries of origin is supervised by the competent judiciary, specifically the Public Prosecution Office at the Court of Cassation in the person of the Public Prosecutor, who is responsible for confirming whether or not the legal conditions (specified in arts. 31-34 of the Criminal Code) have been satisfied and for substantiating proof of the charge. After questioning the person whose extradition is requested, the Public Prosecutor may issue an arrest warrant for that person and then refer the file, together with his report, to the Minister of Justice. An extradition request is decided pursuant to a decree adopted on the basis of a proposal by the Minister of Justice.

182. Except pursuant to a legally binding treaty, no suspect may be extradited in cases other than those provided for in articles 31 to 34 of the Criminal Code, which are as follows:

1. The offences for which the extradition of the perpetrators is requested must be offences committed in the territory of the requesting State, offences that adversely affect its security or financial status, or offences committed by one of its nationals;
2. The offences for which extradition is requested must not be offences falling within the territorial jurisdiction or the jurisdiction *rationae materiae* or *ratione personae* of Lebanese law, as stipulated in articles 15 to 17, article 18.1 *in fine* and articles 19 to 21 of the Criminal Code;
3. The offence for which extradition is requested must be punishable as a serious offence or a misdemeanour under Lebanese law, except where the

circumstances of the act constituting the offence cannot occur in Lebanon owing to its geographical situation;

4. The penalty applicable under the law of the requesting State or the law of the State in whose territory the acts were committed must be not less than a term of imprisonment of 1 year for all the offences covered by the request. In the event of a conviction, the sentence imposed must be not less than 2 months' imprisonment;

5. No irrevocable judgement concerning the offence must have been rendered in Lebanon and nor must the public prosecution or the sentence have lapsed pursuant to Lebanese law, the law of the requesting State, or the law of the State in whose territory the offence was committed.

183. In addition to the above conditions, article 36 of the Criminal Code provides that a defendant who is to be extradited cannot be prosecuted adversarially, subjected to a penalty or extradited to a third State for any offence committed prior to the extradition other than the offence giving rise thereto, unless the Government of the requesting State gives its consent in accordance with the provisions of the preceding article. The consent given in such cases is not governed by the terms of article 33, paragraph 2.

184. The Lebanese judiciary has furthermore played an instrumental role since 2010 in safeguarding the rights of refugees fleeing to Lebanon from persecution (of whatever kind) in their countries.

185. The Lebanese judiciary has applied the provisions of article 3 of the Convention against Torture in all cases where there are grounds for believing that the defendant would be in danger of being subjected to torture if he were to be returned to his home country.

186. It should be noted that the Directorate-General of General Security does not return any refugee or irregular migrant to his home country if it believes that his life might be threatened as a result. In cooperation with the competent international organizations, it works to resettle refugees in a third country where there is no risk to their lives, thereby respecting the principle of non-refoulement set out in article 22 of the Convention Relating to the Status of Refugees of 1951 (to which Lebanon is not a signatory) and article 3 of the Convention against Torture of 1984 (to which Lebanon is a signatory).

**(d) Authorities before which decisions on extradition, expulsion, removal or refoulement can be reviewed and the effects of such decisions**

187. In Lebanon, it is the judicial and administrative authorities that are competent to review decisions on a person's extradition, expulsion, removal or refoulement to a country where he might be subjected to torture.

**1. Judicial authorities**

**(i) The Public Prosecutor at the Court of Cassation**

188. Article 35 of the Criminal Code provides that requests submitted by another State for the extradition of one of its subjects must be referred to the Public Prosecutor at the Court of Cassation, who is responsible for checking whether the legal conditions have been fulfilled and for assessing whether the charge has been adequately established.

189. After questioning the person whose extradition is requested, the Public Prosecutor at the Court of Cassation refers the file, together with his report, to the Minister of Justice. The decision to grant or reject the request for extradition is taken pursuant to a decree adopted on the basis of a proposal by the Minister of Justice.



190. In his report to the Minister of Justice, the Public Prosecutor at the Court of Cassation must include a proposal as to whether the extradition request should be accepted or rejected.

191. In this case, he may propose that a request for the extradition of any foreign national to a country where he is in danger of being subjected to torture should be rejected.

**(ii) Criminal courts: the Misdemeanours Court or courts presided over by a single criminal judge**

192. Refoulement is a criminal penalty provided for in articles 43 et seq. of the Criminal Code for certain criminal offences.

193. Removal from the country is a criminal penalty associated with certain misdemeanours.

194. In the case of serious offences and misdemeanours alike, the Lebanese courts, whether the criminal courts or courts presided over by a single criminal judge, do not impose the penalty of refoulement or removal from the country, in accordance with article 3 of the Convention against Torture, ruling that neither penalty must be imposed if it is believed that the person concerned would be in danger of being subjected to torture if returned to his country.

**(iii) Summary courts**

195. Pursuant to article 579 of the Code of Civil Procedure, it falls to the single judge, in his capacity as a summary judge, to decide on measures for ending any manifest infringement of rights or legitimate rules.

196. The summary courts thus have competence to prevent the enforcement of an administrative decision concerning a person's refoulement or removal from the country where there is a danger that he would be subjected to torture in his own country, in accordance with article 579 of the Code of Civil Procedure, article 3 of the Convention against Torture and other provisions of international treaties ratified by Lebanon.

**2. Administrative authorities**

**(i) The Cabinet, on the basis of a proposal by the Minister of Justice**

197. In cases of extradition, the Minister of Justice examines the file received from the Public Prosecutor at the Court of Cassation, together with the latter's report and proposal as to whether the extradition request should be granted or rejected, and presents his own proposal to the Cabinet as to whether it should be granted or rejected. In both instances, the decision concerning the request is taken pursuant to a decree adopted on the basis of a proposal by the Minister of Justice.

198. The Minister of Justice may in fact propose that an extradition request should be rejected if he is in possession of information that the person whose extradition is requested may be subjected to torture in his country of origin.

**(ii) Director-General of General Security**

199. Under article 17 of the Entry, Stay and Exit Regulation Act, the Director-General of General Security may issue a decision to remove a foreign national from Lebanon if his presence is detrimental to public security and safety.

200. The Director-General must promptly provide the Minister of the Interior with a copy of his decision.

201. When a person is to be removed, he is either notified that he must leave Lebanon within the period specified by the Director-General of General Security or he is taken to the borders by the Internal Security Forces.

202. If, however, the decision of the Director-General of General Security to remove a person from the country is opposed on the grounds that the life of that person will be endangered, the Director-General may, if there is sufficient and substantial evidence to support those grounds, reverse his decision.

**(e) Decisions taken on cases of extradition, expulsion, removal or refoulement, the criteria used in those decisions, the information on which the decisions are based and the source of the information**

**1. List of decisions**

203. The Ministry of Justice has maintained a record of all decisions taken in the past five years in response to requests received for the extradition of foreign nationals.

**2. Criteria used**

**(i) Criteria used in decisions to extradite foreign nationals in response to requests received from another State**

- The provisions of bilateral agreements governing the extradition of offenders between Lebanon and the requesting State;
- In the absence of any bilateral agreement, reference is made to the provisions of the Criminal Code (arts. 30-39, concerning the extradition of offenders);
- The principles of international cooperation between Lebanon and other States;
- The principle of reciprocity between Lebanon and other States;
- The extradition request file;
- The decision of the Public Prosecutor at the Court of Cassation;
- The proposal of the Minister of Justice.

**(ii) Criteria used in decisions for expulsion, refoulement or removal**

- The Lebanese courts with jurisdiction to rule in favour of removal or refoulement are bound by the law, specifically the Criminal Code and other criminal provisions pursuant to which the court hearing proceedings against a foreign national in connection with a serious offence or misdemeanour must order his refoulement or removal from the country as a main or secondary penalty;
- The Director-General of General Security gives a decision to remove a foreign national from Lebanon if it is evident to him that the latter's presence in Lebanon would prejudice public security and safety.

**(iii) Information on which the decisions are based and the source of the information**

204. The information on which decisions are based comes from a variety of sources.

205. Such information is primarily derived from the request addressed to the Lebanese State from the State requesting the extradition of a subject charged with a criminal offence and from the investigations into the offence conducted by law enforcement officials on the instructions of the Public Prosecutor at the Court of Cassation.

206. In this case, the State would have issued a notice to search for the person whose extradition is requested and circulated it to the General Secretariat of the International Criminal Police Organization (INTERPOL) or the General Secretariat of the Arab INTERPOL.

207. The Public Prosecution Office at the Court of Cassation acts on the search notice by way of the International Communications Division of the Internal Security Forces, which it instructs to carry out investigations and gather information on the offence allegedly committed by the person whose extradition is requested.

208. If the wanted person is arrested, the Public Prosecution Office at the Court of Cassation questions him and seeks to establish whether the elements of the criminal offence exist. It then issues a warrant for his arrest and prepares a detailed report for submission to the Minister of Justice, together with a proposal as to whether the extradition request should be granted or refused.

209. The Minister of Justice, the Public Prosecutor at the Court of Cassation and the Director-General of General Security may also receive information specific to the extradition from embassies located in Lebanon, as well as important information from the Office of the United Nations High Commissioner for Refugees concerning the circumstances of the person whose extradition is requested and the likelihood of him being subjected to torture in the requesting State.

## **VI. Criminalization of torture in Lebanese legislation (art. 4 of the Convention)**

### **(a) Legislation criminalizing torture in terms consistent with the definition of torture in the Convention**

210. As previously mentioned, Lebanese criminal legislation contains no specific penalty for the offence of torture. The only provision dealing directly with torture, albeit incidentally, is that set out in article 401 of the Criminal Code, which states that: "Anyone who subjects a person to a punishment that is not permitted by law with a view to obtaining a confession to, or information about, an offence shall be liable to a penalty of imprisonment from 3 months to 3 years." The same article further provides that: "If the violence results in an illness or injury, the minimum penalty shall be 1 year's imprisonment."

211. It goes without saying that this provision is in itself inadequate for combating torture and sentencing offenders to appropriate penalties, as it does not allow for the punishment of all criminal acts of torture. Yet although the provision for the offence of torture does not cover all such acts that might be perpetrated against persons deprived of liberty, Lebanese law nonetheless lays down penalties for criminal acts that might involve torture, such as beating, causing injury or harm, deliberate killing, use of threat, slander, defamation and intimidation.

### **(b) Civil and military criminal provisions regarding offences of torture**

212. In accordance with the provisions of article 27 of the Code of Military Justice, the power to consider, prosecute, investigate and punish any offence perpetrated by members of the security services is essentially vested in the Military Court. In exception to this principle, however, the law confers on the ordinary courts the power to deal with all offences perpetrated by judicial police officers while in the process of conducting an investigation. Article 15 of the Code of Criminal Procedure provides as follows:

“The Public Prosecutor at the Court of Cassation may supervise judicial police officers in the performance of their duties as assistants to the Public Prosecution Office. He may make such observations as he sees fit to their supervisors regarding the performance referred to above and may request the Public Prosecutor at the Court of Appeal, the Financial Prosecutor or the Government Commissioner at the Military Court to prosecute any officer who commits a criminal offence during the performance of his duties or in connection with their performance, without having to obtain prior permission. Such offences shall be handled by the ordinary judiciary notwithstanding any provision to the contrary.”

213. As specified in article 38 of the Code of Criminal Procedure, the members of the judicial police who work under the supervision of the Public Prosecutor at the Court of Cassation are as follows:

- (i) Public prosecutors and advocates-general in all governorates;
- (ii) Governors and district commissioners;
- (iii) The Director-General of the Internal Security Forces, officers of the Internal Security Forces, judicial police officers, non-commissioned officers serving in regional units, and heads of police stations belonging to the Internal Security Forces;
- (iv) The Director-General of General Security, General Security officers, non-commissioned General Security investigators, the Director-General of State Security, the Deputy Director-General, State Security officers and non-commissioned State Security investigators;
- (v) Village mayors;
- (vi) Captains of ships, aeroplanes and aircraft.

214. All offences of torture that may be committed by the above persons during or in connection with the conduct of a judicial investigation fall within the jurisdiction of the ordinary judiciary, specifically the criminal judiciary (public prosecution offices and investigating and sentencing judges). A judicial police officer may be prosecuted without the permission of his hierarchical superior.

215. The jurisdiction of the ordinary judiciary to deal with offences of torture is confined to the period during which a judicial police officer conducts an investigation under the supervision of the Public Prosecution Office. In other words, it covers only the preliminary investigation stage. The jurisdiction over an offence of torture committed other than during that stage therefore lies with the Military Court, in accordance with article 27 of the Code of Military Justice.

216. In this connection, the bill introducing penalties for torture and other cruel, inhuman or degrading treatment includes two key provisions:

- The first provision: the jurisdiction to deal with offences of torture is to be vested in the ordinary courts and removed from the military courts. This applies to all stages, including those of initial inquiries, preliminary investigations, questioning and trial.

217. The proposed provision states as follows:

“Torture means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person by or at the instigation of or with the explicit or implicit consent of a public official or other person acting in an official capacity during inquiries, preliminary investigations, judicial investigations and trials.

“Contrary to any other provision, the power to prosecute, investigate and conduct trials pertaining to the offences set forth in article 401 of the Criminal Code shall be vested exclusively in the ordinary judiciary. The provisions of article 15 of the Code of Criminal Procedure shall be applicable.”

- The second provision: Military personnel are to enjoy no immunity from prosecution, with the proposed text stating that: “Contrary to any other provision in the Public Servants’ Act and the laws applicable to military personnel, the prosecution of any public servant for the offences provided for in article 401 is not subject to any prior permission or authorization and does not require the consent of the administration with which the servant is associated, even if the offence arose as a result of his position.”

218. Nonetheless, even though the bill has not yet been approved, when statements that a detainee has been subjected to torture are made before the criminal judiciary, it takes the necessary action to ascertain that statements are true, or at the very least to determine their seriousness, by carrying out the following steps:

- Appointing a forensic pathologist to confirm the situation;
- Taking a statement from the victim about how the offence of torture was perpetrated against him and about the related material and personal circumstances;
- Interviewing those suspected of having committed the offence and the victim in order to identify any contradictions in their statements;
- Taking statements from any witnesses.

219. Once he is satisfied, the judge must refer the file to the competent judicial authorities so that the investigation can be widened and appropriate legal measures taken with respect to the alleged offenders.

220. By way of example, the Lebanese judiciary took all the necessary judicial measures after torture was found to have been committed in Roumieh prison in connection with the riot staged by prisoners on 20 April 2015, a videotape of which was leaked to the media. As soon as the judicial authorities learned about the videotape and its contents, the judicial police were instructed to investigate the offence by the Office of the Military Prosecutor under the supervision of the Public Prosecution Office at the Court of Cassation. As a result of the investigations, the Office of the Military Prosecutor decided to instigate legal proceedings against the security officers involved and refer them to the first military investigating judge for prosecution and investigation.

221. On 6 July 2015, the first military investigating judge issued a decision to refer the officers to the competent court for trial.

**(c) Whether statutes of limitations apply to offences of torture**

222. Article 10 of the Code of Criminal Procedure provides that the statute of limitations for proceedings is 10 years in the case of serious offences, as from the date of the offence, and 3 years in the case of misdemeanours.

223. No specific provision is made in Lebanese law for excluding offences of torture from the scope of application of the above-mentioned statute of limitations. Torture offences of all kinds (serious offences and misdemeanours) are thus subject to the statute of limitations applicable to all offences, which runs from the time when the offence is committed and all of the elements of the offence are present.

224. The bill introducing penalties for torture and other cruel, inhuman or degrading treatment or punishment states, however, that the provision relating to the statute of

limitations for torture offences should be amended so that the time period does not start to run until after the victim is no longer in prison, detention or temporary custody not followed by imprisonment.

**(d) Number and nature of the cases in which the legal provisions were applied, the penalties imposed upon conviction and the reasons for acquittal**

- Number and nature of the cases: No official statistics are available on this subject.
- Reasons for acquittal: Generally the failure of victims to prove their cases or their statements concerning the offender for the following reasons:
  - It is difficult to prove physical injury, especially as those who perpetrate torture are expert at committing grave acts without leaving any visible physical marks;
  - It is difficult to prove mental injury that is psychological damage resulting from torture;
  - It is difficult to prove the causal relationship between injury resulting from torture and a criminal act perpetrated by a law enforcement official;
  - The unequal power relationship between the investigating officer (the offender) and the victim and the clandestine nature of the offence make it difficult to name witnesses and to obtain their agreement to testify.

225. These difficulties are attributable to the absence of any particular requirement for persons deprived of liberty to undergo medical examinations over a succession of short periods of time while they are under investigation and to the lack of any legal protection for witnesses in cases involving torture.

**(e) Examples of judgements relating to offences of torture**

226. Guidance in this respect is provided by a judgement handed down by the Mount Lebanon Criminal Court, composed of Presiding Judge Joseph Ghamroun and Counsellor Judges Khaled Hammoud and Nahida Khaddaj, in the trial of a retired brigadier general charged with causing the death of a person in the Investigations Bureau of the Anti-Narcotics Department from having subjected him to beating and torture.

227. The Criminal Court not only convicted the judicial police officer for causing that death but also declared null and void the written records of the questioning carried out under torture on the grounds that they were contrary to law, notably article 47 of the Code of Criminal Procedure, which states that a confession extracted under torture is invalid and in violation of the fundamental guarantees afforded to persons deprived of liberty.

**(f) Existing legislation on disciplinary measures during the investigation of an alleged case of torture to be taken against law enforcement personnel responsible for acts of torture**

228. Judicial investigations involving persons deprived of liberty are primarily carried out by members of the Internal Security Forces, who are subject to the disciplinary measures provided for in the Internal Security Forces Regulation Act No. 17 of 6 September 1990. As specified in article 117 of the Act, the penalties are designed to correct behaviour, prevent negligence, deter error and promote discipline.

229. Article 118 of the Act determines the type of penalties that may be imposed on:

1. Individuals and non-commissioned officers:
  - A written caution;

- A written reprimand;
- Ordinary suspension;
- Strict suspension;
- Confinement in a military detention centre;
- Withholding of salary;
- Disciplinary transfer;
- Loss of promotion opportunities;
- Demotion;
- Dismissal.

2. Officers:

- A written caution;
- A written reprimand;
- Ordinary suspension;
- Strict suspension;
- Confinement in a military detention centre;
- Disciplinary transfer for other than unit commanders;
- Loss of promotion opportunities or demotion by one rank or more;
- Temporary removal from service;
- Permanent removal from service.

230. The Internal Security Forces Regulation Act emphasizes in article 119 that no punishment may be imposed on security personnel other than by their hierarchical superiors and that it is the superior who witnesses or establishes the wrongdoing who must impose punishment if the wrongdoer is one of his subordinates and otherwise suggest, if he is not one of his subordinates, that he should be punished.

**(g) How established penalties take into account the grave nature of torture**

231. Disciplinary and criminal penalties are closely connected with the injury caused to the victim by the offence. The penalties are more stringent where the resulting injury is substantial and serious.

232. In the case of disciplinary penalties, it is for chief administrative officers to impose them on any law enforcement official who commits torture during the performance of his investigative duties.

233. As to criminal penalties, they are enumerated in the applicable provisions on the basis of the gravity of the act of torture and range from those imposed for slander and defamation to that imposed for killing.

234. The bill introducing penalties for torture and other cruel, inhuman or degrading treatment or punishment provides for penalties commensurate with the injury caused by a torture offence in accordance with the above:

- The aggregated sentence for torture offences is imprisonment from 1 to 3 years;
- If the torture leads to temporary injury, harm or physical or mental incapacity, the offender is liable to a penalty of detention from 3 to 7 years;

- If the torture leads to permanent injury, harm or physical or mental incapacity, the offender is liable to a penalty of detention from 5 to 10 years;
- If the torture leads to death, the offender is liable to a penalty of detention from 10 to 20 years.

## **VII. Lebanese jurisdiction over crimes of torture (arts. 5 and 6 of the Convention)**

### **(a) Measures taken to establish jurisdiction over crimes of torture**

235. The Lebanese Criminal Code provides for the cases in which Lebanese law is applicable to offences where States are in dispute as to the jurisdiction over them and the application of their criminal laws to them.

236. In that the Lebanese Criminal Code serves as a set of rules pertaining to the Lebanese justice system, the Lebanese courts are vested with the exclusive authority to apply those rules and ascertain that the conditions laid down therein are satisfied.

237. Once it is determined that Lebanese criminal law is applicable, as opposed to other foreign criminal laws, the general rules concerning the jurisdiction of Lebanese criminal courts must be consulted in order to identify which of them is competent to hear the case.

238. In this regard, article 9 of the Code of Criminal Procedure provides that proceedings must be initiated before one of the following:

- The criminal authority with jurisdiction over the area in which the offence was committed;
- The criminal authority with jurisdiction over the place of residence of the defendant;
- The criminal authority with jurisdiction over the place in which the defendant was apprehended.

239. There are no particular measures in place to establish Lebanese jurisdiction over crimes of torture, as the jurisdiction of Lebanese courts is established by legislation and not by administrative measures.

### **1. Lebanese jurisdiction over torture offences committed in the State or on board a ship or aircraft registered therein**

- Torture offences committed in the Lebanese State: Article 15 of the Lebanese Criminal Code provides that: “Lebanese law is applicable to all offences committed in Lebanese territory. An offence shall be deemed to have been committed in Lebanese territory:

“(1) If one of the constituent elements of the offence, an act forming part of an indivisible offence or an act involving a principal or an accomplice is perpetrated in Lebanese territory;

“(2) If the result occurs or was expected to occur in Lebanese territory.”

240. Jurisdiction over torture offences or an act of torture committed in Lebanese territory therefore lies with the Lebanese criminal courts to which the Lebanese Criminal Code applies.

- Torture offences committed on board a ship or aircraft: Article 17 of the Criminal Code provides that Lebanese ships and aircraft are assimilated to Lebanese territory.



Consequently, any offence committed on board a ship or aircraft falls within the jurisdiction of the Lebanese courts.

241. With regard to foreign ships and aircraft, the Lebanese courts are competent to hear cases involving offences committed on board:

- (1) If the perpetrator or victim is a Lebanese national or if the aircraft lands in Lebanon after the commission of the offence;
- (2) Lebanese law is applicable to offences involving the seizure of foreign ships or their cargo if the ships in question enter Lebanese territorial waters;
- (3) Lebanese law is also applicable to the offence of seizure of ships' cargoes outside the territorial waters if the cargoes are conveyed into Lebanese territory for local consumption or for transit purposes.

## **2. Lebanese jurisdiction over torture offences committed by a national of the State**

242. Lebanese courts are competent to deal with all offences committed in or outside Lebanese territory by Lebanese nationals. Article 20 of the Criminal Code provides that Lebanese law is applicable to any Lebanese national who, acting outside Lebanese territory as a principal, instigator or accomplice, commits a serious offence or misdemeanour that is punishable under Lebanese law. The same is true even if the accused loses or acquires Lebanese nationality after committing the serious offence or misdemeanour.

243. Article 21 of the same Code provides that Lebanese law is applicable outside Lebanese territory to:

- (1) Offences committed by Lebanese officials during or in connection with the performance of their duties;
- (2) Offences committed by Lebanese diplomatic officials or consuls if they enjoy immunity under public international law.

## **3. Lebanese jurisdiction over torture offences committed against a Lebanese national**

244. The Lebanese Criminal Code covers one instance to which Lebanese law is applicable if the victim is a Lebanese national, namely that provided for in article 17, paragraph 2, which states that the Lebanese courts are competent to hear cases involving offences committed on board a foreign ship or aircraft where the victim is a Lebanese national.

### **(b) Examples of cases applied in Lebanon relating to Lebanese jurisdiction over torture offences**

245. Examples of cases applied in Lebanon with respect to the exercise of jurisdiction by the Lebanese courts over cases of torture cannot be provided owing to the lack of any database on the subject (see part VII, sect. (e)).

- (c) **Domestic legal provisions concerning the custody of a person alleged to have committed a torture offence or other measures to ensure his presence; his right to consular assistance; the obligation to notify other States that might also have jurisdiction that such a person is in custody; the circumstances of the detention; and the intention of the State party to exercise jurisdiction**

**1. Domestic legal provisions concerning the custody of a person alleged to have committed a torture offence or other measures to ensure his presence, whether he is a Lebanese or foreign national**

246. In Lebanese law, there are no special provisions governing the detention of persons suspected of torture offences specifically or measures to ensure that such persons do not escape justice. Persons suspected of torture offences are therefore subject to the same procedural rules as all those suspected of the other offences provided for in the Code of Criminal Procedure.

247. The key rules with respect to custody pending investigation are as follows:

- (i) Initial custody during preliminary investigations is subject to two basic rules:
- The first rule relates to the nature of the offences concerning which it may be decided to hold a person in initial custody, as they must be offences for which the penalty is imprisonment of 1 year or more;
  - The second rule relates to the period of initial custody during the preliminary investigations conducted by judicial police officers under the supervision of prosecuting judges, which may not exceed 48 hours. It may be extended for a further 48 hours by a reasoned decision of the Public Prosecutor in the case of minor and serious offences alike (arts. 32, 42 and 47 of the Code of Criminal Procedure);
- (ii) The Code of Criminal Procedure, specifically articles 107 and 108 thereof, lays down the conditions to be met before an investigating judge can decide to detain a person. The maximum period during which a person may be detained for questioning is determined in the following manner:
- The offence must be punishable by a minimum of 1 year's imprisonment or the suspect must have already been given a criminal sentence or a 3-month term of imprisonment without any stay of execution;
  - The investigating judge must justify the decision to detain the suspect and state the substantive reasons behind his decision;
  - The period of detention in the case of a misdemeanour is two months, which may be extended for a similar period in cases of utmost necessity, unless the defendant has already been sentenced to imprisonment of at least 6 months (where there is no limit to the period of detention);
  - The period of detention in the case of a serious offence is six months, which may be extended by a similar period once only on the basis of a reasoned decision, unless the offences involve killing, drugs or attacks against State security or represent a global danger, or unless the suspect has already been given a criminal sentence (where the maximum period of detention is unspecified).

248. For these types of offences, there are no guarantees to ensure that a person suspected of torture will not escape justice. The guarantees applicable to suspects in torture cases are the same as those prescribed in article 111 of the Criminal Code of Procedure, which

provides that a decision may be taken to place a suspect under judicial supervision in order to ensure that he does not escape. These include such requirements as:

- Residing in a specified town, borough or village, undertaking not to leave it and electing a domicile therein;
- Not frequenting certain locations or places;
- Depositing his passport with the registry of the Investigation Department and notifying the Directorate-General of General Security that he has done so;
- Undertaking not to move outside the area of supervision and reporting regularly to the supervisory office;
- Not engaging in professional activities prohibited by the investigating judge during the period of supervision;
- Undergoing regular medical examinations and laboratory analyses during a period specified by the investigating judge;
- Depositing surety in an amount determined by the investigating judge.

249. The investigating judge may amend the supervisory obligations he imposes as he sees fit.

250. If the defendant breaches one of the supervisory obligations imposed on him, the investigating judge may decide, after consulting the Public Prosecution Office, to issue a warrant for his arrest and to forfeit the surety to the Treasury.

251. The Code also provides that a defendant placed under judicial supervision may request that it be lifted. The investigating judge must rule on his request, after consulting the Public Prosecution Office, within a period not exceeding three days from the date on which the request was recorded by the registry of the Investigation Department. His decision may be appealed before the indictment chamber, in accordance with the rules applicable to appeals against decisions by the investigating judge.

**2. Consular assistance for foreign suspects, the obligation to notify other States that may have jurisdiction over such persons, and whether the State party intends to exercise jurisdiction**

252. The Lebanese authorities, in the event that a decision is made to detain a foreign national who is in Lebanese territory, are fully committed to carrying out the following:

- (i) To appoint an interpreter for a foreign detainee if he is not proficient in Arabic;
- (ii) To notify the embassy of the country of a foreign detainee that he has been detained;
- (iii) To enable the embassy of the country of a foreign detainee to provide him with consular assistance in accordance with Lebanese laws.

**(d) Authorities in charge of enforcing Lebanese law with respect to persons suspected of torture offences (see part VI, sect. (b))**

1. The Military Court is competent to consider all torture offences committed by personnel of the Internal Security Forces, General Security and the Army. The offence of torture is mostly committed by such personnel and the jurisdiction to prosecute, investigate and punish them consequently lies with the Military Court, in accordance with article 27 of the Code of Military Justice;

The bill introducing penalties for torture and other cruel, inhuman or degrading treatment or punishment also provides that the authority to hear cases involving torture offences is vested in the ordinary courts; that members of the security agencies enjoy no immunity from prosecution; and that such members can be prosecuted without the permission of the administrative authorities in charge of them;

2. Where the perpetrator, instigator or accomplice in the offence of torture is a judge who supervises investigations involving persons deprived of liberty, the Public Prosecution Office at the Court of Cassation is the authority vested with the power to prosecute and the General Panel of the Court of Cassation has the power to conduct the trial.

**(e) Cases in which domestic provisions are applied**

253. All of the legal provisions governing the jurisdiction of the Lebanese courts to apply Lebanese criminal law are mentioned in section (a) of the present part of the report. These same provisions cover the cases in which Lebanese law is applied to torture offences.

## **VIII. Judicial prosecution of persons suspected of crimes of torture (art. 7 of the Convention)**

**(a) Measures to ensure the fair treatment of the alleged offender at all stages of the proceedings, including the right to legal counsel, the right to be presumed innocent until proved guilty and the right to equality before courts**

**1. Measures to ensure the fair treatment of the alleged offender at all stages of the proceedings**

254. The principles for the fair treatment of alleged offenders at all stages of the proceedings are enshrined in Lebanese criminal law, notably the Criminal Code and the Code of Criminal Procedure.

255. The Lebanese courts make every effort to respect, apply and reflect the principles for the fair treatment of alleged offenders at all stages of the proceedings, starting with the preliminary investigations and followed by the questioning and trial.

256. The fair treatment of alleged offenders is a general principle in the Lebanese justice system. Needless to say, the law contains no provisions permitting any abuse or cruel treatment of offenders. On the contrary, the principles enshrined in law are consistent with taking into account the interests of defendants.

257. The key legal principles for ensuring the fair treatment of alleged offenders are as follows:

- New criminal laws may not be applied retroactively and are immediately applicable. This is one of the fundamental principles underpinning the rights of persons in conflict with the law and persons deprived of liberty, as no person may undergo trial other than in accordance with the provisions of the law in force at the time when the offence was committed and concerning the substance and provisions of which he is presumed to have been aware. Such persons may neither have measures imposed on them nor be tried under new laws of which they could not have been aware in terms of either their substance or the severity of the penalties laid down in them;
- During all stages of the proceedings relating to persons deprived of liberty, the presumption of innocence applies. Public prosecutors and investigating judges take

care to respect this principle, which takes into account the interest of those persons. Hence, in accordance with the relevant legal provisions, they may not decide to detain such persons unless they have evidence and deep suspicions that the defendant was involved in the commission of an offence.

258. The presumption of innocence is strictly observed by the criminal courts, which acquit a defendant whenever doubts exist concerning his alleged involvement in the commission of an offence, the principle being that any such doubts must be interpreted in his favour.

259. No court may hand down a conviction unless it is firmly and fully convinced, without the slightest doubt, that the defendant is guilty:

- The principle that the provisions of the law must be interpreted in favour of the defendant: The country's criminal judges are bound by the principle (at all stages of the prosecution, investigation and trial) that the law must be interpreted in favour of the defendant;
- The principle that the provisions of criminal law must be narrowly interpreted: The country's criminal judges are bound by the principle (at all stages of the prosecution, investigation and trial) that the law criminalizing and punishing unlawful acts must be narrowly interpreted in favour of the defendant.

**2. Fundamental guarantees and rights afforded to alleged offenders, including the right to legal counsel and the right to equality before the courts**

260. Reference has been made throughout this report to the fundamental rights afforded to persons deprived of liberty as soon as they are taken into custody. Lebanese law enshrines the right of alleged offenders to legal counsel and to equality before the courts. The Code of Criminal Procedure hence provides for the right of a detained person to meet with a lawyer whom he appoints by a declaration noted in the record, without the need for a properly drafted power of attorney.

261. Equality before the courts for all citizens and foreign nationals is also a basic principle observed in Lebanese law, which makes no distinction in providing for fundamental rights and guarantees between Lebanese citizens and foreign nationals, as it affords rights and guarantees to all persons deprived of liberty, irrespective of their nationality.

262. Judicial police officers who fail to respect the rights afforded to detainees consequently bear criminal responsibility for their conduct. Any detainee whose rights under the law have been infringed may lodge a complaint against the person responsible.

**(b) Measures to ensure that the standards of evidence required for prosecution and conviction apply equally in cases where the alleged offender is a foreigner who committed acts of torture abroad**

263. Lebanese law sets out fundamental guarantees and rights for persons deprived of liberty, regardless of whether they are Lebanese or foreign nationals. It consequently ensures that the standards of evidence apply as equally to foreign nationals accused of a torture offence (whether committed in Lebanon or abroad) as to Lebanese nationals who are similarly accused.

**(c) Examples of practical implementation of the measures referred to in (a) and (b) above**

264. Respect for the principles of the fair treatment of alleged offenders and the equal application of the standards of evidence to both Lebanese and foreign nationals is self-evident in the work of the country's judicial entities and authorities.

## **IX. Undertaking to extradite persons suspected of having committed crimes of torture and the provision of mutual judicial assistance among States parties to the Convention (arts. 8 and 9 of the Convention)**

### **(a) Does Lebanese law recognize torture and related crimes as extraditable offences?**

265. Owing to the difficult political and security situation in Lebanon, the bill aimed at criminalizing torture and punishing its perpetrators under special criminal provisions has not yet been promulgated.

266. It is therefore necessary to refer to the general criminal provisions punishing criminal acts that at the same time constitute the material element of the offence of torture, which is in itself a punishable offence under criminal law.

267. With respect to the extradition of offenders or persons suspected of having committed the offence of torture, the recognized legal principle is that the Lebanese State is obligated to apply the provisions of treaties that it concludes with other States.

268. If no agreement has been concluded with another State, reference must be made to the general provisions of the Lebanese Criminal Code, in particular article 33 thereof, from which it can be concluded that Lebanese law recognizes offences constituting the material element of the offence of torture (whether involving the use of threat, slander, defamation, causing harm, or killing), as well as related crimes, as extraditable offences.

269. A request for the extradition of a person who has committed an offence constituting the material element of the offence of torture may not, however, be granted in the following instances:

1. If the offence for which extradition is requested is not punishable as a serious offence or misdemeanour under Lebanese law;

Torture in itself is not a criminal offence. Offences causing physical or mental harm, including killing, are punishable as serious offences or misdemeanours under Lebanese law and are therefore extraditable offences in the event that they are verified;

2. If the penalty applicable under the law of the requesting State or the law of the State in whose territory the acts were committed is a term of imprisonment of less than 1 year for all the offences covered by the request and, in the event of a conviction, if the sentence imposed is less than 2 months' imprisonment. This condition is bound up with the legal status of the requesting State in that the offence of torture in that State must be punishable with a minimum of 1 year's imprisonment and the sentence for the perpetrator of the offence must be a minimum of 2 months' imprisonment;

3. If a final judgement concerning the offence has been rendered in Lebanon, or if the public prosecution or the sentence has lapsed pursuant to Lebanese law, the law of the requesting State or the law of the State in whose territory the offence was committed.

### **(b) Does Lebanese law make extradition conditional on the existence of a treaty?**

270. Lebanese law does not make the extradition of persons suspected of having committed torture offences conditional on the existence of a treaty with the requesting State. It is explicitly stated in article 30 of the Criminal Code that, where an agreement or treaty exists between the Lebanese State and the requesting State, the terms provided for in the

Criminal Code are applicable. Article 30 reads as follows: “No one may be extradited to a foreign State in cases other than those provided for in this Code, except pursuant to a legally binding treaty.”

**(c) Does Lebanese law consider the Convention against Torture as the legal basis for extradition in respect of torture offences?**

271. The Lebanese State ratified the Convention against Torture pursuant to Act No. 185 of 24 May 2000.

272. Article 2 of the Code of Civil Procedure defines the status of international conventions ratified by the Lebanese State with regard to other legal norms, adopting the principle of the hierarchy of legal norms in the rule of law.

273. In this context, it is important to emphasize that the norms set out in the Convention against Torture have a force of law that takes precedence over domestic legislation and administrative decisions and decrees. On the basis of this legal force afforded to international treaties under article 2 of the Code of Criminal Procedure, articles 8 and 9 of the Convention against Torture, which cover the extradition of persons suspected of torture offences, are applicable and take precedence over the provisions of the Criminal Code, as they have a greater force of law.

**(d) Extradition treaties between Lebanon and other States parties to the Convention that include torture as an extraditable offence**

274. There are no bilateral agreements between Lebanon and any other State that include torture as an extraditable offence.

275. The offence of torture is an offence like all other offences and the legal norms applied are the same as those applied to measures for the extradition of the perpetrators of any other offence.

**(e) Cases where Lebanon granted the extradition of persons alleged to have committed crimes of torture**

276. In no case has Lebanon granted the extradition of persons alleged to have committed crimes of torture in their own countries.

**(f) Legal provisions, including any treaties, concerning mutual judicial assistance that apply in the case of torture offences (criminal procedure regarding the offence of torture and complicity and participation in torture)**

277. Mutual judicial assistance between Lebanese and foreign authorities is essentially subject to the provisions of the international agreements and treaties that Lebanon has ratified and is under obligation to implement, including:

1. Pursuant to Act No. 38 of 30 December 1968, Lebanon ratified an agreement with Tunisia on mutual judicial assistance, enforcement of judgements and the extradition of offenders;
2. Pursuant to Act No. 3257 of 17 May 1972, Lebanon ratified a judicial agreement with Italy;
3. Pursuant to Act No. 6 of 6 April 1985, Lebanon ratified an agreement with Greece on mutual judicial assistance;
4. Pursuant to Act No. 481 of 8 December 1995, Lebanon ratified an accord signed with the Republic of Cyprus on the transfer of convicted persons;

5. Pursuant to Act No. 630 of 23 April 1997, Lebanon ratified a judicial agreement with the Syrian Arab Republic;
6. Pursuant to Act No. 693 of 5 November 1998, Lebanon ratified a judicial agreement with Egypt;
7. Pursuant to Act No. 469 of 12 December 2002, Lebanon ratified a judicial cooperation agreement on criminal matters with the Republic of Bulgaria;
8. Pursuant to Act No. 470 of 12 December 2002, Lebanon ratified a judicial cooperation agreement on civil matters with the Republic of Bulgaria;
9. Pursuant to Decree No. 2385 of 20 June 2009, Lebanon ratified a memorandum of understanding on the establishment of a joint committee with the Kingdom of Bahrain.

**(g) Cases involving the offence of torture in which mutual assistance was requested by or from Lebanon, including the result of the request**

278. The Lebanese Government has never requested assistance from another State in order to prosecute and sentence the perpetrators of a specific torture offence.

## **X. Training of medical and law enforcement personnel and judicial officials concerned with matters relating to the prohibition of torture (art. 10 of the Convention)**

**(a) Training programmes**

279. After the Convention of Torture had been given effect in the Lebanese legal order, the State apparatus, assisted by civil society, worked to organize training courses for persons or public servants concerned with the prevention and punishment of torture. Training courses were arranged for the following categories:

- (i) Judges;
- (ii) Forensic pathologists;
- (iii) Members of the judicial police.

280. The training courses for judges and members of the judicial police have covered the legal aspects of the offence of torture and its prevention by all means, including in particular through respecting the rights of persons deprived of liberty. The programmes have focused on the following core subjects:

- (i) Fundamental rights and guarantees of persons deprived of liberty;
- (ii) Lawful and unlawful investigation methods;
- (iii) Legal requirements to be met in taking decisions concerning detention, with a particular emphasis on adherence to the maximum period of detention prescribed by law;
- (iv) Procedures to be followed in taking statements from a person deprived of liberty concerning torture to which he has been subjected (preserving evidence, helping the person to prove his statements and treating such statements with the utmost seriousness);
- (v) The right of judicial police officers to establish the legality of orders from their superiors and their right to refuse to obey an unlawful order from their superior



to commit torture, with attention drawn to their disciplinary, civil and criminal responsibility for any act of physical or psychological torture.

281. The training programmes for forensic pathologists are moreover generally focused on the basic principles set out in the Istanbul Protocol concerning the investigation and documentation of physical and psychological evidence of torture.

**(b) Information on the training of medical personnel dealing with detainees or asylum-seekers to detect physical and psychological marks of torture and training of judicial and other officers involved in following up complaints of torture**

**1. Information on the training of medical personnel dealing with detainees and asylum seekers to detect physical and psychological marks of torture**

282. In addition to being able obtain their rights, individuals must be afforded means of substantiating the existence of those rights before the authorities (both administrative and judicial). Nor is the occurrence of an offence sufficient for the perpetrator to be sentenced to the appropriate penalty, as his responsibility for the offence must be established and he must be duly prosecuted before the competent authorities.

283. A person's responsibility for committing the offence of torture and the consequential rights of the victim (or of his relatives in the event of the victim's death) may be established by various means, including the testimony of witnesses and proof. The most effective means, however, remains the expert scientific evidence provided by the forensic pathologist who clinically examines the victim and determines any physical injury suffered, the approximate date of its occurrence and the type of instrument (blunt or sharp, for example) that might have caused the injury.

284. The work of Lebanese forensic pathologists in documenting physical and psychological evidence of torture is entirely independent from the work of judicial police officers. They carry out their medical examinations in a separate room, with none of those officers present, and independently prepare their reports on the results, without interference from officers involved in the investigation. These reports are added to the investigation file.

285. The Ministry of Justice recognizes the essential role of forensic evidence in ultimately holding perpetrators of torture to account and helping victims to claim compensation for their injuries. It thus signed a memorandum of understanding with the Restart Centre for Rehabilitation of Victims of Violence and Torture (referred to hereinafter as the Restart Centre), a Lebanon-based NGO, on restructuring the Department of Forensic Medicine in line with the Istanbul Protocol (Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment).

286. In its efforts to start giving effect to the memorandum of understanding, the Ministry of Justice established a specialized committee of experts in law and forensic medicine to collaborate with the Restart Centre on the following:

- Reorganizing the administrative and technical structure of the Department of Forensic Medicine (in which context it is pertinent to mention a plan supported and funded by the European Union for automating the Ministry of Justice, including the Department of Forensic Medicine, which is to have a database containing information on all matters relating to forensic medicine);
- Setting the objectives of the Department of Forensic Medicine and producing an action plan;
- Setting criteria for the appointment of forensic pathologists;

- Setting a code of conduct for forensic pathologists in line with the principles enunciated in the Istanbul Protocol;
- Establishing an administrative unit in charge of continuous training for forensic pathologists.

287. This European Union-financed plan was rolled out in June 2015 for completion over a 30-month period.

288. The Department of Forensic Medicine at the Ministry of Justice has also compiled a list of independent physicians trained to carry out medical examinations in cases of alleged torture. The names of these physicians have been communicated to all judicial police stations so that their services can be enlisted as necessary.

289. As part of reinforcing the State's efforts to combat and prevent torture through assisting victims and ensuring that the legal frameworks are in place for enabling them to establish their rights vis-à-vis the perpetrators of torture offences, the Ministry of Justice agreed to a plan, presented by the European Union in 2015, to create a forensic medicine centre at the Palais de Justice in Tripoli. The Ministry of Justice is responsible for securing the premises for the centre, facilitating access to prisoners and ensuring that they undergo a medical examination, and guaranteeing the safety of the team working at the centre.

290. The idea is that this model plan should be piloted for two years and then rolled out, following an assessment, to courts of justice in all governorates. The centre will be provided with technical equipment (medical apparatus) and staffed by appropriate personnel (two forensic pathologists for carrying out physical examinations, two for carrying out psychological assessments, two social workers and two legal experts).

291. In addition to providing the opportunity for detainees to undergo a medical examination free of charge, the centre is to perform the important functions of:

- Detecting communicable diseases in prisons;
- Detecting cases of torture or ill-treatment (physical or psychological);
- Documenting cases of torture in accordance with the standards laid down in the Istanbul Protocol;
- Providing legal advice to detainees where otherwise unavailable;
- Compiling an annual report on all abuses detected through medical examinations (without naming the persons concerned, unless they have given their consent) and transmitting the report to the Ministry of Justice for referral to the competent judicial authorities so that investigations can be conducted and perpetrators prosecuted and held to account.

292. In parallel with the above, the Institute of Judicial Studies organized expert-led training courses in May 2014 for all physicians working in the field of forensic medicine. The Institute is also due to run another training course for forensic pathologists in 2015 on use of the Istanbul Protocol in assisting the effective investigation and documentation of cases of torture.

## **2. Information on the training of judicial and other officers involved in following up complaints of torture**

293. One of the key concerns of training centres and institutes run by the Lebanese Army and other security agencies is that of making government officials, military and security personnel, police officers and prison staff aware of human rights in general and of the provisions of the Convention against Torture in particular.

294. In the training provided by the Police Academy for law enforcement personnel in human rights in general and the prevention of torture in particular, the subject of human rights, which includes detailed modules on the Convention against Torture, is now compulsory. Members of the Internal Security Forces and General Security receive special training in the field of human rights.

295. With support from donors, furthermore, a new building has been constructed to house the Internal Security Forces Training Institute. The new site is on a par with similar training institutes in developed countries in terms of the numbers it can accommodate and its equipment. To complement this positive development, a detailed training syllabus has been designed and modern training techniques introduced.

296. As part of promoting adherence to human rights principles and the introduction of community policing, and thanks to financial support from the British and United States embassies in Beirut, the Beirut police station previously known as the Hbeish squad station underwent major renovations and a change of name to the Ras Beirut squad station. It was supplied with the latest equipment and technology and station officers were selected by a special committee on the basis of their professional skills. The officers received training on human rights, community policing and how to deal with members of the public who use the services of the police station for any reason. The experiment has proved to be a remarkable success. Regarded as a ground-breaking project in policing, the station has been visited by foreign experts, university students and NGO representatives.

297. In August 2015, training courses were also organized for doctors working in the Internal Security Forces on how to document cases of torture in accordance with the Istanbul Protocol. Supervised by one international and several local experts on the subject, these courses will make it easier to identify and uncover victims of torture in a scientific manner, thereby reducing the number of cases and facilitating the prosecution and punishment of those who commit torture.

298. For its part, the Directorate-General of the Internal Security Forces has introduced additional measures for monitoring the conduct of military personnel in charge of detention centres, who attend courses on human rights law and relevant international and Lebanese laws. In cooperation with the International Committee of the Red Cross, core programmes are being put in place for all volunteer military personnel at the Directorate-General of General Security. When first starting at a training institute, they will receive instruction on the Standard Minimum Rules for the Treatment of Prisoners from a specialized team of the International Committee of the Red Cross.

**(c) Nature and frequency of the instruction and training**

299. The training courses in place for all persons concerned with the prevention and punishment of torture stem from the sense of responsibility of the relevant authorities (the Ministry of Justice, the Supreme Judicial Council, the Institute of Judicial Studies, the Ministry of the Interior and Municipalities, the Directorate-General of the Internal Security Forces, the Directorate-General of General Security and the Ministry of National Defence). These courses are run periodically for all those working and active in the area of preventing and punishing torture.

**(d) Information on any training that ensures appropriate and respectful treatment of women, juveniles and ethnic, religious or other diverse groups, particularly regarding forms of torture that disproportionately affect these groups**

300. The Lebanese authorities attach singular importance to certain social groups in detention who, on account of their particular status, require special treatment and special rights over and above the general rights afforded to all detainees. Minors, women and

foreign nationals with little knowledge of Arabic are examples. Law enforcement officials are thus taught to respect the additional rights afforded to these groups during the conduct of investigations by reason of their particular status.

301. First, the judicial police receive instruction in observing the guarantees and rights established for minors under the Act on the Protection of Juveniles in Conflict with the Law or at Risk (for further details, please refer to part IV, sect. (a), p. 28).

302. Secondly, training programmes include material covering the obligation on judicial police officers in charge of an investigation to take into account the fact that women's physical and psychological nature is distinct from that of men and to treat them fairly on that basis so that their rights are respected equally with those of men (for further details, please refer to part IV, sect. (a), p. 28).

303. Thirdly, law enforcement officials are trained to respect the rights of foreign nationals, notably with regard to language differences and non-racial discrimination (for further details, please refer to part IV, sect. (a), p. 29).

304. Fourthly, as part of ensuring that the rights of socially marginalized persons are respected and that lawful investigation methods are employed, in compliance with the obligation to observe human rights during the conduct of judicial investigations, the Public Prosecutor at the Court of Cassation issued a circular banning intrusive body searches of persons prosecuted for the offence of unnatural, or same-sex, intercourse and requesting public prosecution offices at the Court of Appeal to stop authorizing anal searches. Interrogations of homosexuals in police stations and detention centres are monitored to ensure that those being interrogated do not suffer exploitation or ill-treatment on account of their sexual orientation. The Lebanese Medical Association has issued a circular requesting doctors working in forensic medicine not to perform tests for homosexuality, on pain of being found guilty of misconduct.

**(e) Effectiveness of the various training programmes**

305. The training programmes in place are tremendously effective at all levels, particularly with regard to:

- (i) Disseminating and promoting a human rights culture among all law enforcement personnel through raising awareness of the rights of detained persons and the fundamental guarantees afforded to them under domestic and international law;
- (ii) Sensitizing judges and law enforcement officials to the fact that infringement of any of the fundamental rights and guarantees afforded to persons deprived of liberty entails civil, criminal and disciplinary responsibility;
- (iii) Familiarizing judges and law enforcement officials with the Convention against Torture, its Optional Protocol and the Istanbul Protocol so as to promote measures to prevent torture at all levels and in the daily practices of law enforcement officials;
- (iv) Providing training for doctors in the scientific methods of investigation and documentation described in the Istanbul Protocol so as to increase the probability of obtaining medical evidence that will help victims to prove their case against offenders.

**(f) Ensuring that the prohibition against torture is included in the rules and instructions issued in regard to the duties and functions of such persons**

306. It goes without saying that Lebanese law prohibits in all circumstances the practice of any form of torture. Administrative instructions in regard to the duties and functions of all law enforcement personnel underline the fact that torture is prohibited.

307. Regular and apprentice judges attend continuous training courses at the Institute of Judicial Studies. These courses are initiated and supervised by the Supreme Judicial Council and teach the concepts set out in the Convention against Torture, the Optional Protocol thereto and the Istanbul Protocol.

308. The Directorate-General of Internal Security Forces has issued a detailed service note on the implementation of the Convention against Torture. The definition of torture contained in the Convention has been adopted and the duties of units involved in arrest, investigation and custody measures have been spelled out, as has the role of the agencies which oversee implementation. The purpose here is to achieve optimal results.

309. The Lebanese Army's instructions on implementing the Military Code likewise define torture as any deliberate act by which severe distress, pain or suffering, whether physical or mental, is inflicted on a person for the purpose of obtaining information, extracting a confession or inflicting punishment. They also determine the resulting penalty.

310. In 2012, in a collaborative effort with civil society organizations working in this area, notably the Restart Centre, the competent authorities organized training courses for a group of forensic pathologists. The course material focused on the key role of forensic pathologists in the prevention of torture and on the rules to be observed in detecting and documenting cases of torture in accordance with the Istanbul Protocol.

**XI. Keeping under review interrogation rules, instructions, methods and practices, as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment, with a view to preventing torture (art. 11 of the Convention)**

**(a) Laws, regulations and instructions concerning the treatment of persons deprived of their liberty**

311. Lebanese law includes provisions to ensure that persons deprived of their liberty are treated humanely and appropriately. It also affords to those persons rights and guarantees to ensure that their prison living conditions are in keeping with their natural human rights.

312. There are multiple legal rules emanating from a variety of sources on the treatment of persons deprived of their liberty. The fundamental rights that should be observed in order to ensure that prisoners are treated humanely and appropriately are basically derived from the following sources of domestic and international law (binding on the Lebanese State).

**1. Binding domestic law**

- Decree No. 14310 of 11 February 1949, concerning the regulation of prisons, detention centres and juvenile correctional and educational facilities;
- The Internal Regulations for Prisons of the Ministry of National Defence (Decree No. 6236 of 17 January 1995);
- The Criminal Code (in particular arts. 46 and 58 thereof);

- The Code of Criminal Procedure (in particular the section on judicial oversight of detention centres and prisons and protection of personal freedom from unlawful detention, art. 400 et seq.).

## 2. Binding international law

- The Basic Principles for the Treatment of Prisoners, adopted pursuant to United Nations General Assembly resolution 45/111 of 14 December 1990, paragraph 5 of which states that prisoners shall retain the human rights set out in:
  - The Universal Declaration of Human Rights;
  - The International Covenant on Economic, Social and Cultural Rights;
  - The International Covenant on Civil and Political Rights;and such other rights as are recognized in United Nations instruments.
- The Standard Minimum Rules for the Treatment of Prisoners, adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva in 30 August 1955, and approved by the Economic and Social Council by its resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977.

### (b) Measures requiring prompt notification of and access to lawyers, doctors, family members and, in the case of foreign nationals, consular notification

313. As already mentioned, fundamental rights for persons deprived of liberty are enshrined in Lebanese law, in particular the right to contact a family member, meet with a lawyer, request a medical examination by a forensic pathologist and, if the person deprived of liberty is a foreign national, appoint a sworn interpreter and notify his embassy that he is being held in custody. In accordance with the legal provisions relating to these fundamental rights and guarantees for persons deprived of liberty, the judicial police are required to inform those persons of the rights afforded to them by law as soon as they are arrested (for further details, please see part IV, sect. (a), pp. 24-27).

314. The legal provisions underline the promptness with which persons deprived of liberty must be informed of their legal rights so that they are able to exercise them as instantly as possible upon their arrest. Article 47 of the Code of Criminal Procedure provides that the judicial police must immediately inform a suspect of his fundamental rights as soon as he is taken into custody and make a note of the procedure in the record. Article 48 of the Code provides that: "If a judicial police officer breaches the rules concerning the custody of the defendant or suspect, he shall be liable to prosecution for the offence of unlawful detention as set out in and punishable by article 367 of the Criminal Code, in addition to the disciplinary sanction, irrespective of whether or not the offence was discovered in flagrante."

315. It should be emphasized here that prosecuting judges and hierarchical superiors in the judicial police supervise the activities of non-commissioned investigators, checking that they observe the rights of persons deprived of liberty and enable them to exercise those rights.

316. This supervision is carried out in practice through legal mechanisms that allow hierarchical superiors to impose disciplinary measures on judicial police officers who infringe any of the rights of persons deprived of liberty and that also empower prosecuting judges to supervise and prosecute judicial police officers.

(c) **Degree to which the following rules and principles for the treatment of prisoners are reflected in Lebanese law and practice**

**1. Standard Minimum Rules for the Treatment of Prisoners and the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment**

317. Lebanese law contains numerous provisions setting out standard minimum rules and basic principles for the treatment of prisoners or persons deprived of liberty in general. They recognize the fundamental and legal rights of prisoners, which are inherent to humanity and to human nature. Key among those rights are:

- The right of prisoners to fulfilment of the legal requirements concerning their place of custody;
- The right of prisoners to recreation;
- The right of prisoners to medical services;
- The right of prisoners to maintain personal hygiene;
- The right of prisoners to see relatives and friends;
- The right of prisoners to lodge complaints concerning the infringement of any right while in prison;
- The right of prisoners to be informed of and follow all legal proceedings relating to their cases.

318. At the present time, the severe overcrowding in all prisons and detention centres makes it difficult to bring conditions into line with the Standard Minimum Rules for the Treatment of Prisoners. The overcrowding has grown more acute due to the fact that, because of the ongoing war in the Syrian Arab Republic, the Lebanese authorities refrain from expelling, returning or extraditing Syrian refugees who are in conflict with Lebanese law, as is consistent with the principle of non-refoulement in the Convention Relating to the Status of Refugees of 1951 (even though Lebanon is not a signatory thereto) and article 3 of the Convention against Torture of 1984 (to which Lebanon acceded in 2000).

319. Despite the difficult circumstances facing the country, Lebanon is taking steps to reduce overcrowding and to improve conditions in Lebanese prisons so as to eventually bring them into line with international standards. In that context, a national plan was approved for transferring the prison administration from the Ministry of the Interior and Municipalities to the Ministry of Justice. The Directorate of Prisons is now up and running at the Ministry of Justice and a judge has been appointed to supervise its work, assisted by two judges attached to the Ministry and a number of public servants. Since 2012, the Directorate has taken positive steps to strengthen the rights of prisoners in terms of their living and health conditions and from legal standpoint. The Lebanese authorities have also initiated related short-, medium- and long-term measures.

• **Short-term measures:**

- The Directorate of Prisons at the Ministry of Justice periodically conducts unannounced visits to prisons and compiles detailed reports, including recommendations, which are submitted to the Director-General at the Ministry of Justice for the attention of the Minister and referral to the competent authorities;
- Progressive steps are being taken towards achieving the full segregation of detainees from convicted offenders;

- A prison complaints system has been set up in collaboration with the Ministry of the Interior and Municipalities, with funding from the UNODC Programme Office in Beirut;
- The Ministry of Education and Higher Education has been contracted to supply vocational teachers to work in prisons with adults and juveniles and award official certificates qualifying them for work after their release from prison;
- New sewing workshops are in operation at Roumieh prison and Kobbah prison in Tripoli;
- In Roumieh prison, a facility known as al-Dar has been opened where prisoners can receive visits from relatives;
- In coordination with NGOs and civil society organizations, urgent work is being undertaken to renovate court custody suites in line with international standards and equip them in accordance with minimum human rights standards. Work on some of the suites has been completed (in Zahle and Baabda) and is still ongoing elsewhere;
- The activities of humanitarian associations, local bodies and NGOs involved in prison work are being facilitated. The Lebanese authorities enable all representatives of NGOs and civil society organizations who so wish to visit detention centres, inspect the conditions and offer support to prisoners. Some of these organizations are involved in the maintenance and renovation of detention centres. Representatives of the International Committee of the Red Cross also periodically visit prisons, custody suites and detention centres and submit reports to the Directorate-General of the Internal Security Forces, which takes into account the comments contained in those reports in addressing the gaps and difficulties, within the available resources;
- The judicial and security authorities coordinate on an ongoing basis in order to expedite trials and sentencing for prisoners, particularly those in pretrial detention. A number of Lebanese businessmen and activists have been motivated by a sense of national responsibility to work with the Ministry of the Interior and Municipalities to secure the release of a large number of insolvent prisoners and pay fines that they were unable to pay themselves;
- A modern field hospital fitted with the latest equipment has been set up inside “D” building to provide any medical treatment and care needed by prisoners;
- A high-security wing has been built to international prison standards at Roumieh prison and can accommodate around 300 high-security prisoners;
- The Directorate-General of General Security has taken exceptional measures, particularly in the area of administration, to process prisoners in its custody and minimize the time that these persons spend in Lebanese territory. Travel tickets are provided, at the expense of the Directorate-General, and certain of its officials are authorized to issue decisions limiting the time spent in detention. In April 2015, the Minister of the Interior and Municipalities decided to establish a joint committee of officers from the Directorate-General of the Internal Security Forces and the Directorate-General of General Security to address the issue of foreign detainees. The two Directorates-General will work in coordination to resolve any problems arising in that connection, reduce the responsibility for such detainees and ease their situation.



- **Medium- and long-term measures:**

- A blueprint has been drawn up for the construction of four main prisons in South Lebanon, North Lebanon, the Bekaa, and Mount Lebanon - Beirut. The plans and designs for the new prisons have been prepared in accordance with the requisite standards;
- In view of the costliness of building these prisons, the Minister of the Interior and Municipalities has made official visits to a number of Arab countries, where he explained the situation of the country's prisons and showed the plans for the new buildings. The hope is that Lebanon will receive support from these States, as the country's financial resources are insufficient for the State to bear the cost on its own;
- A project on criminal justice in Lebanon being implemented by the Ministry of Justice, with technical assistance from the UNODC Programme Office, has led to a number of advances, including:
  - (i) In cooperation with Saint Joseph's University and the Directorate-General of the Internal Security Forces, medical files have been created for all prisoners;
  - (ii) Twenty doctors from Saint Joseph's University have been called in to help prepare the prisoners' medical files, of which there are 2,700 in all;
  - (iii) Each prisoner is assigned to a health unit on admission to prison;
  - (iv) A specialized team has been set up to provide psychological care to the 370 adolescent Syrian refugees incarcerated in Roumieh prison;
  - (vi) A gynaecologist regularly visits women's prisons and the needs of pregnant and breastfeeding women are catered for (Ministry of Social Affairs);
  - (vii) Additional prison doctors, including general practitioners, dentists and other specialists, have been engaged by the Directorate-General of Internal Security Forces;
  - (viii) In connection with promoting the human rights of prisoners, reducing the incidence of abuses, monitoring prison conditions and maintaining records of prisoners, the Directorate of Prisons now uses a computerized prison management programme known as Basem. Clear and transparent records of all prison admissions and releases are therefore kept and include the following details:
    - The names of persons admitted to prison;
    - The date of their admission;
    - The legal document forming the basis for their detention (court findings or judgments);
    - The dates of court hearings;
    - The date of release from prison.

320. Keeping such records and information on the legal status of prisoners promotes the rights of all persons deprived of liberty and reduces the incidence of human rights violations, especially as the Directorate of Prisons has assigned to prison registries a total of 19 public servants who maintain those records, prepare periodic reports on prisoners who

have not been investigated and tried, and submit them to the Ministry of Justice for referral to the competent authorities for investigation and accountability.

321. The Human Rights Division of the Directorate-General of the Internal Security Forces, in coordination with the committee tasked with monitoring torture in prisons, custody suites, detention centres and investigation facilities belonging to the Internal Security Forces, keeps one register for court custody suites and another for police custody suites belonging to the Internal Security Forces. This reduces the likelihood of individuals being subjected to torture while in detention or under questioning and helps to prevent discrepancies between the information on record about detainees held in custody suites of the Internal Security Forces and those held in court custody suites. It also allows for preventive action to forestall ill-treatment. The information in the register includes details about the identity of detainees, the reasons for their detention, the person who ordered the detention, the nature of the offence, the names of the investigators, the time and date of arrest and the detainees' state of health.

322. If prison staff learn of an incident of inter-prisoner violence, especially if sexual violence is involved, they immediately make inquiries, under judicial supervision, and take appropriate steps to prevent the recurrence of such incidents. They are also looking for better ways of preventing inter-prisoner violence, punishing perpetrators and protecting victims.

323. With a view to improving interaction with prisoners, the Directorate-General of the Internal Security Forces issued a service note on the principles and guidelines to be followed in the event of a prisoners' hunger strike. Based on the recommendations of a national conference on prison health organized jointly by the International Committee of the Red Cross and the Internal Security Forces, the contents of the note are in keeping with the Declaration on Hunger Strikers (Declaration of Malta) of 1991.

324. The Directorate-General of General Security has designated specialized officers to monitor health care for its own officers and men and to carry out medical examinations of persons held in its custody. A medical officer is in daily attendance to examine all prisoners and prescribe medicines and treatment. Where necessary, prisoners are admitted to civilian (not military) hospitals, at the expense of the Directorate-General.

325. A committee has also been established at the Ministry of Justice to consider applications from detainees for commutation of their sentences. The committee has taken initiatives and measures that have helped to promote prisoners' rights, in particular:

- It has extensively applied the provision dealing with the case of prisoners who have spent 30 years on death row, which is contained in Act No. 183 of 5 October 2011, by immediately and systematically commuting the death sentence to imprisonment for a term of between a minimum of 30 years and a maximum of 35 years. It should be said that there is an implicit agreement between all official authorities not to enforce any death penalty on prisoners in Lebanon;
- It gives talks to prisoners aimed at fostering awareness of their legal rights and obligations;
- It inspects prisons and carries out checks with a view to improving prisoners' living conditions and ensuring that all requisites are supplied via the Ministry or NGOs;
- It investigates humanitarian cases involving prisoners (such as those with a terminal illness, communicable disease or physical disability) by visiting them in prison or in hospital and working to assist them legally (to obtain release, a commutation of sentence or a pardon);

- It visits prison psychiatric wings to check on the living conditions, health status and legal situation of patients;
- If it learns of any incident of torture in prisons, it reports it to the Ministry of Justice and documents it with photographs so that the Ministry can refer the matter to the competent authorities for investigation and accountability;
- It communicates with civil society organizations involved in prisoners' cases and with prisoners' relatives with a view to providing assistance and paying bail sums and fines for prisoners in preparation for their release.

**2. Principles of Medical Ethics relevant to the Role of Health Personnel, particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment**

326. Forensic pathologists in Lebanon are members of the Lebanese Medical Association, which is for all physicians working in any specialist field of medicine. They are consequently bound by the general rules of conduct applicable to all physicians, irrespective of their area of professional specialization.

327. In Lebanon, there is no union, code of conduct or code of professional ethics for forensic pathologists in particular. As already mentioned in the present report, however, the Ministry of Justice has signed a memorandum of understanding with the Restart Centre on restructuring the Department of Forensic Medicine in line with the Istanbul Protocol (Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment).

328. Efforts are being focused on the key objective of setting a code of conduct for forensic pathologists and harmonizing it with the Istanbul Protocol.

**3. Code of Conduct for Law Enforcement Officials**

329. All Lebanese authorities are committed to raising awareness and promoting a culture of respect for human rights among all law enforcement personnel, for whom ongoing training courses are organized with that end in mind.

330. The Directorate of Prisons at the Ministry of Justice has sent prison staff on training courses at the Institute of Judicial Studies and abroad. It has also assigned to prison registries a total of 19 public servants who prepare periodic reports on the situation of prisoners who have not been investigated and tried, which are submitted to the Ministry of Justice for referral to the Judicial Inspectorate.

331. Physicians and detention centre officers have received training provided by the Ministry of Defence in cooperation with the World Health Organization and the International Committee of the Red Cross. Nurses working in prisons have also been taught about the basic medical rules to be followed in dealing with prisoners.

- (d) **Independent bodies or mechanisms established to inspect prisons and other places of detention and to monitor all forms of violence against men and women, including all forms of sexual violence against both men and women and all forms of inter-prisoner violence, including authorization for international monitoring or NGO inspections, and mechanisms of review of the conduct of law enforcement personnel in charge of the interrogation and custody of persons held in detention and imprisonment and results of such reviews, along with any qualification or re-qualification procedures**

**1. Independent bodies or mechanisms established to inspect prisons**

332. In the Lebanese system, various entities attached to either the Ministry of the Interior and Municipalities or the Ministry of Justice are empowered to inspect and monitor prisons, which they periodically visit in order to detect any form of violence or torture (physical, sexual or psychological) to which men or women deprived of liberty may be subjected.

333. First, with reference to judicial matters, the Code of Criminal Procedure includes a section devoted to the judicial supervision of detention centres and prisons and the protection of personal freedom from unlawful detention. Prosecuting judges, investigating judges and sentencing judges are required to visit detention centres and prisons in their respective areas of jurisdiction on a monthly basis in order to inspect conditions and ascertain whether prisoners' rights and guarantees are being respected.

334. The above judges are empowered by law to order those in charge of detention centres and prisons in their respective areas of jurisdiction to undertake such measures as are required by the investigation and trial.

335. Secondly, with reference to the Ministry of Justice, officials from the Directorate of Prisons and the committee involved in the commutation of sentences, both of which are headed by a judge attached to the Ministry of Justice, periodically make unannounced visits to prisons and detention centres. In the event that they detect any cases of torture, they submit a report on the matter to Ministry of Justice for referral to the competent judicial authorities for the purpose of pre-trial investigation and prosecution.

336. Thirdly, the committee tasked with monitoring torture in prisons, custody suites, detention centres and investigation facilities also carries out unannounced visits to prisons and detention centres run by the Ministry in order to carry out inspections and monitoring. It also compiles reports as a preliminary to the imposition of disciplinary measures on offending officers who have committed any unlawful act of torture against any person deprived of liberty.

**2. Authorization for international monitoring or NGO inspections**

337. It is a well known that the Lebanese authorities readily cooperate with all official international bodies and facilitate their visits and missions to Lebanon.

338. A delegation from the Subcommittee on Prevention of Torture and another from the Committee against Torture visited Lebanon in 2010 and 2013, respectively, and the Lebanese authorities facilitated the missions of both delegations and their visits to prisons and detention centres in every way.

339. The Lebanese authorities also cooperate with local and international NGOs, allowing their representatives to visit prisons and working with them to promote the prevention of torture and improve the situation of persons deprived of liberty in all prisons and places of custody.

### **3. Results of reviews by monitoring and inspection mechanisms**

340. All monitoring and inspection mechanisms produce situation reports providing information on the nature of the torture offence committed, the identity of those responsible and the circumstances and facts of the offence. This report is transmitted to two key authorities:

- (i) A judicial authority to take charge of the prosecution and pretrial investigations involving perpetrators of torture;
- (ii) An administrative authority (either a judicial inspector or a senior officer of the Internal Security Forces) to take disciplinary action against perpetrators of torture.

#### **(f) Information on any safeguards for the protection of individuals especially at risk**

341. All State agencies and authorities work hard to ensure the protection of individuals especially at risk, who might include suspects in terrorism cases, persons held in secret detention or foreign nationals deprived of liberty.

342. First, the Lebanese judicial and security authorities make every effort to ensure that the fundamental rights and guarantees relating to the prosecution and trial of persons accused of having committed terrorist offences are respected so that they are better able to exercise their rights before the official authorities in charge of their investigation and trial. They likewise make every effort to ensure that the offence committed by such persons, which is to say an act of terrorism affecting security and public order, is not used as a legitimate excuse for subjecting those suspected of it to torture, which is an offence in itself.

343. Secondly, the Code of Criminal Procedure clearly and explicitly prohibits all secret detention at the hands of judicial police officers, whose activities are controlled, restricted and supervised by the Lebanese judiciary, which works to ensure that the legal rules and principles aimed at protecting the rights of persons deprived of liberty are firmly entrenched and respected.

344. Thirdly, the Lebanese State is doing its utmost to enhance the protection and guarantees afforded to foreign nationals who are taken into custody and held at a special detention centre operated by the Directorate-General of General Security. The existing detention centre under the Palais de Justice is to close and all detainees held there are to be transferred to a detention centre recently built, to international standards, by the Ministry of the Interior and Municipalities (Directorate-General of General Security). The new detention centre was opened in September 2015 and the detainees are due to move there in early 2016.

## **XII. Prompt and impartial investigation of acts of torture committed in Lebanese territory (art. 12 of the Convention)**

### **(a) Authorities competent to initiate and carry out the investigation, both at the criminal and disciplinary levels**

#### **1. Authorities competent to initiate and carry out the investigation at the criminal level**

345. Under current Lebanese legislation, the Public Prosecution Office at the Court of Cassation is the judicial authority vested with the power to initiate and carry out a criminal investigation into torture offences, irrespective of whether the jurisdiction over such offences lies with the ordinary judiciary or the military judiciary (see part VI, sect. (b)).

346. Where the jurisdiction over a torture offence lies with the ordinary judiciary, the Public Prosecutor at the Court of Cassation may himself initiate and carry out the investigation or he may instruct the Public Prosecutor at the Court of Appeal in the governorate concerned to do so, in which case the latter must comply with his instructions.

347. Where the jurisdiction over a torture offence lies with the military judiciary, the Office of the Military Prosecutor is empowered to initiate and carry out the investigation concerning the offence. The Office of the Military Prosecutor operates under the supervision and instructions of the Public Prosecution Office at the Court of Cassation. The Government Commissioner at the Military Court is obliged to abide by any instructions and decisions given by the Public Prosecutor at the Court of Cassation concerning investigation procedures. The Office of the Military Prosecutor is bound by the same rules, which observe the conditions governing initial custody and its maximum duration, as provided for in the Code of Criminal Procedure (and already mentioned in parts IV and VIII).

348. The Public Prosecution Office at the Court of Cassation looks into offences by way of one or more of the following:

- (i) Investigations that it conducts itself;
- (ii) Reports received from official authorities or an official who is aware of having committed an offence during, in connection with or on account of the performance of his duties, in which case it may conduct an investigation of public departments and institutions but may not bring a prosecution;
- (iii) Preliminary inquiries carried out on its instructions by the judicial police and judicial police reports concerning offences known to have taken place;
- (iv) Complaints and reports received either directly or through the Office of the Financial Prosecutor, the Public Prosecution Office at the Appeal Court or the Government Commissioner at the Military Court or their assistants;
- (v) Any lawful means available to it for obtaining information about the offence.

349. Immediately upon looking into an offence of torture committed in any place of detention or custody or in any of the prisons in Lebanon, the Public Prosecution Office may decide to initiate an investigation. In that event, it instructs the judicial police to summon the suspect, the victim and witnesses and may also avail itself of technical and medical expertise for the purpose of substantiating physical or psychological injuries resulting from the torture.

350. If following the conduct of investigations, a person is strongly suspected of having committed the offence, the Public Prosecutor at the Court of Appeal or the Government Commissioner at the Military Court, supervised by the Public Prosecutor at the Court of Cassation, take the decision to detain and prosecute the suspect and refer him to the investigating judge.

351. After completing his investigations and seeking the opinion of the competent Public Prosecution Office, the investigating judge may decide to prohibit the trial of the suspect if he finds that there is insufficient evidence or that the act does not constitute a criminal offence. If, however, he concludes that the suspect has committed a misdemeanour or a serious offence, he may charge him and refer the file to the competent public prosecutor for transmittal to the authority with trial jurisdiction.

352. The authority to initiate and carry out an investigation into torture offences may additionally be vested in the Justice Council, which is a special court established by a decree of the Cabinet primarily to prosecute, investigate and try the perpetrators of dangerous offences affecting internal State security. In-depth investigations have been carried out, for instance, into all allegations of torture and ill-treatment made in particular

by those arrested in 2007 during the fight waged by the Lebanese Army against terrorism in the Nahr el-Bared camp. The Justice Council has rendered final judgements relating to the 39 case files covering all of the detainees and is always ready to hear allegations of torture or ill-treatment made by detainees or their legal representatives.

353. It must be stressed that, during that fight against terrorism in 2007, the Lebanese Army conducted itself in a highly professional manner and showed exemplary respect for international human rights law, as enshrined in the 1949 Geneva Conventions. In particular, it evacuated civilians from the Nahr al-Bared camp, including 22 women married to major terrorists in the camp and 46 children. At their own request, these persons were taken to places of safety by the Directorate-General of General Security, notwithstanding the fact that most of them, being non-Lebanese, had contravened the Entry, Stay and Exit Regulation Act.

## **2. Authorities competent to initiate and carry out the investigation at the disciplinary level**

354. The authorities competent to initiate and carry out the investigation at the administrative/disciplinary level vary in accordance with the entity with which the perpetrator of torture is associated.

355. At the judicial level, the Judicial Inspectorate is the authority competent to initiate and carry out the investigation and to impose disciplinary measures on judicial assistants and judges whose involvement as principals, instigators or accomplices in torture offences has been established.

356. In the case of the Internal Security Forces, article 119 et seq. of the Internal Security Forces Regulation Act No. 17 of 1990 provide that no punishment may be imposed on security personnel other than by their hierarchical superiors and that it is the superior who witnesses or establishes the wrongdoing who must impose punishment if the wrongdoer is one of his subordinates and otherwise suggest, if he is not one of his subordinates, that he should be punished. Details of all punishments must be set out in writing and include a written statement by the person concerned about his alleged wrongdoing. No punishment may be enforced until after it has been approved by the unit commander, the Director-General of the Internal Security Forces or the Minister of the Interior and Municipalities, each in accordance with their respective functions, as specified in article 125 of the Act.

357. The punishments submitted to the Director-General of the Internal Security Forces for approval are:

- (i) All punishments imposed on officers;
- (ii) Punishments imposed on men and non-commissioned officers where it is demonstrated to the unit commander that:
  - The wrongdoing warrants a punishment for excess of authority;
  - The wrongdoing warrants a punishment involving measures that he is not empowered to authorize;
  - The wrongdoing also constitutes a crime that is a misdemeanour or a serious offence;
  - Those participating in the wrongdoing are attached to more than one unit;
  - The wrongdoing resulted in the loss, damage or failure of equipment or buildings belonging to, or placed at the disposal of, the Internal Security Forces.

(b) **Applicable procedures, including whether there is access to immediate medical examinations and forensic expertise**

358. The basic rights and guarantees afforded to detainees as soon as they are taken into custody include the right to request a medical examination by a forensic pathologist. Such requests are submitted directly to the Public Prosecutor by the detainee or through his representative or a family member. On receipt of the request, the Public Prosecutor appoints a pathologist to conduct the examination, during which no judicial police officer may be present. The pathologist must present his report within a maximum of 48 hours to the Public Prosecutor, who must provide a copy of the report to the person who requested the examination as soon as he receives it. The person in custody and any of the above-mentioned persons may request another examination if the period of custody is extended.

(c) **Whether the perpetrator is suspended from his functions while the investigation is being conducted and/or prohibited from further contact with the alleged victim**

359. Where a law enforcement official is heavily suspected of having committed, or been involved in the commission of, a torture offence, his immediate superior may temporarily suspend him from his functions until the investigation is completed.

360. There is nothing in law to prohibit the perpetrator from further contact with the alleged victim. In practice, however, a suspected offender is prevented by virtue of being held in detention or initial custody from making any contact with the victim. The judge may also take steps to place an offender under judicial supervision, thereby preventing him from contacting a victim, by imposing on him one of the following requirements of:

- (i) Residing in a specified town, borough or village, undertaking not to leave it and electing a domicile therein;
- (ii) Not frequenting certain locations or places;
- (iii) Depositing his passport with the registry of the Investigation Department and notifying the Directorate-General of General Security thereof;
- (iv) Undertaking not to move outside the area of supervision and reporting regularly to the supervisory office;
- (v) Not engaging in professional activities prohibited by the investigating judge during the period of supervision;
- (vi) Undergoing regular medical examinations and laboratory analyses during a period specified by the investigating judge.

### **XIII. Guaranteeing the right of individuals subjected to torture to complain and to have their cases promptly and impartially investigated, as well as the protection of complainants and witnesses against ill-treatment or intimidation (art. 13 of the Convention)**

(a) **Remedies available to individuals who claim to have been victims of acts of torture or other cruel, inhuman or degrading treatment or punishment**

361. The remedies available to individuals who claim to have been victims of acts of torture depend on whether it is the ordinary judiciary or the military judiciary that is competent to consider torture offences. Where the jurisdiction over a torture offence lies with the ordinary criminal judiciary, the victim may join proceedings already initiated by



the Public Prosecution Office and may bring a complaint directly, in the form of a personal action against the alleged offender, before the investigating judge (if the offence involves a misdemeanour or a serious crime) or before a single criminal judge (if the torture offence is a misdemeanour) in the event that the Public Prosecution Office fails to respond to his complaint and initiate an investigation into the offence committed against him.

362. In cases where the jurisdiction over a torture offence lies with the Military Court, the general principle is that the elements of that jurisdiction, given the exceptional nature of the Court, may not be generalized so as to include matters within the competence of the civil courts. This principle is laid down in article 25 of the Code of Military Justice, which limits the jurisdiction of the Military Court in a public prosecution to the conviction of a defendant, who is liable to compensate for any incapacity or injury sustained by any person as a result of the criminal act in question.

363. This principle does not prevent the victim of any offence, including those relating to torture, from filing a complaint with the Office of the Military Prosecutor in the usual manner. The complaint follows the normal legal trajectory in that it forms the basis for the initiation of preliminary investigations and thorough questioning. The victim is heard as a complainant who is able to set out his complaint and evidence in full. Suspects are duly tried and the final judgement, when eventually pronounced, is central to proceedings for compensation before the civil courts, the role of which is confined to determining the amount of such compensation, without prejudice to the principle enshrined in the decision of the Military Court to hand down a conviction.

364. Victims of torture offences (themselves or their families) still have recourse to the civil courts in order to seek financial compensation for injuries inflicted on them by the offenders. This right of recourse to the civil courts is unconnected with the conduct of investigations by the competent authorities. Even if the official authorities fail to conduct the necessary investigations, victims of torture may bring a complaint before the civil authorities to claim financial compensation for injuries sustained. They may inform the Public Prosecution Office that a torture offence has taken place and urge it to investigate, without entitled to join proceedings brought against the perpetrator of the offence.

365. The judiciary competent to hear the case brought by a victim of torture against the perpetrator (whether the civil or the criminal judiciary) applies the provisions of article 134 et seq. of the Code of Obligations and Contracts, which sets out the following basic principles in awarding compensation:

- (i) The compensation awarded to the victim must be fair;
- (ii) Psychological and physical injuries suffered by victims must be compensated;
- (iii) Current injury must be compensated, as must any future injury that is certain to occur;
- (iv) All direct and indirect injury is compensated, provided that it is clearly connected with the torture offence;
- (v) Albeit that the victim of a torture offence is primarily the person who is in custody, his legal or blood relatives may claim compensation for psychological injury they have sustained as a result of the offence.

**(b) Mechanisms for the protection of the complainants and the witnesses against any kind of intimidation or ill-treatment**

366. There are no mechanisms in place for the protection of complainants and witnesses in cases involving torture offences against any kind of intimidation or ill-treatment. The

practice of intimidation and ill-treatment may, however, be the subject of a separate criminal prosecution if it involves criminal acts punishable under the Criminal Code.

(c) **Statistical data (disaggregated by sex, age, crime and geographical location) on complaints of torture submitted to the domestic authorities, the results of the investigations and the services to which the persons accused of having committed torture belong**

367. No statistical data are currently available on complaints of torture, the results of the investigations and the services to which the persons accused of having committed torture belong.

(d) **Information on the access of any complainant to independent and impartial judicial remedy, including information on any discriminatory barriers to the equal status of all persons before the law, and any rules or practices preventing harassment or retraumatization of victims**

368. The remedies available to victims of torture offences have already been mentioned and are centred around the right of recourse to the civil courts in order to claim appropriate financial compensation. In the Lebanese judicial system, there are no discriminatory barriers to the equal status of all persons before the law and the judiciary. Every person enjoys the same fundamental rights and guarantees with respect to recourse to the judiciary and application of the law, irrespective of sex, colour, religion or belief.

369. There is nothing in law specifically to prevent any practices involving the harassment or retraumatization of victims.

(e) **Information on any officers within police forces and prosecutorial or other relevant offices specifically trained to handle cases of alleged torture or violence against women and ethnic, religious or other minorities**

370. Law enforcement officials undergo continuous training relating to the obligation to respect the rights and guarantees of persons deprived of liberty, lawful methods of investigation and the prohibition on any unlawful method of investigation. They are also trained to handle cases of alleged violence against women and ethnic, religious or other minorities.

371. Officers and personnel tasked with running and guarding the prisons belonging to the Ministry of National Defence attend training courses on human rights, the handling of detainees and strict compliance with internal service notes on the subject, the prohibition on ill-treatment of detainees in all circumstances, and punishment commensurate with the seriousness of any infringement committed.

(f) **Information on the effectiveness of measures for handling cases of torture or violence**

372. All of the measures taken to make remedies available to victims, train law enforcement officials to handle cases of torture, promote a human rights culture among those officials and ensure strict implementation of the rules concerning their responsibilities (civil, criminal and disciplinary) are proving to be effective in combating and preventing torture.

## **XIV. Right of victims of torture to redress, fair and adequate compensation and rehabilitation (art. 14 of the Convention)**

### **(a) Procedures in place for obtaining compensation for victims of torture and their families and whether these procedures are codified or in any way formalized**

373. In Lebanese law, there are no special mechanisms in place for ensuring that victims obtain adequate compensation for having been subjected to torture. In seeking to establish their right to compensation for injury, they follow the same the general legal rules and procedures as victims of any offence punishable by law.

374. The first point to be clarified is that the following persons are entitled to claim compensation under Lebanese law for injury resulting from torture:

- (i) The victim who was subjected to torture;
- (ii) The legal and blood relatives of the victim, who may claim compensation for psychological injury suffered on account of their kinship or blood relationship with the victim.

375. Secondly, fair and adequate compensation is awarded to victims of torture and covers all psychological and physical injuries suffered.

376. Thirdly, the ordinary criminal and civil courts are empowered to award compensation on the basis of whether jurisdiction lies with the ordinary or military courts (see part XIII, sect. (a)).

### **(b) Whether the State is legally responsible for the offender's conduct and, therefore, obliged to compensate the victim**

377. Lebanese administrative law recognizes the principle of the responsibility of the State for injury caused by its officials during the performance of their duties.

378. The State Consultative Council has established this principle, applying and giving effect to it in its independent judgements as part of exercising its functions of monitoring the lawfulness of the activities of the administration.

379. Victims of torture may invoke this principle of State responsibility and bring proceedings before the State Consultative Council in order to hold the State to account and seek compensation for any wrongdoing (torture offence) perpetrated by one of its servants or by any law enforcement official that resulted in physical or psychological injury to the victim.

380. In accordance with the above-mentioned general principle, the Code of Civil Procedure provides for a legal mechanism that enables citizens to bring proceedings against the State in connection with its responsibility arising from the actions of ordinary court judges.

381. Whether pertaining to the actions of investigating judges or prosecuting judges, such proceedings may be brought against the State in all cases where so allowed by a special provision, particularly in the case of miscarriages of justice, deception, fraud, bribery or gross error that no judge would be presumed to commit in the normal performance of his duties.

382. The competence to hear such cases is vested in the General Panel of the Court of Cassation. If a ruling is made in favour of the claimant, the Court takes two key decisions:

- (i) To invalidate the procedure about which the complaint was made;
- (ii) To award adequate compensation to the victim for the injury suffered.

383. If it was the judge himself who committed the offence of torture, instigated its commission by a judicial police officer or had any kind of criminal involvement in the offence, he must be deemed to have committed a gross error that no judge would be presumed to commit in the normal performance of his functions.

384. In that event, the victim has recourse to the General Panel of the Court of Cassation and may follow the rules and procedures set out in article 741 et seq. of the Code of Civil Procedure in order to obtain adequate compensation and hold the State responsible for the gross error of the judge that caused him physical and psychological injury.

**(c) Statistical data or examples of decisions by the competent authorities ordering compensation and indications as to whether such decisions were implemented, including any information about the nature of the torture, the status and identification of the victim and the amount of compensation or other redress**

385. All government agencies and departments in Lebanon work in association with civil society in the form of NGOs to promote and stimulate a culture of combating and preventing torture and to inform victims of their right to compensation and about the legal methods and procedures to be followed in order to access that right.

386. Notwithstanding these efforts, no victim has yet brought any proceedings before the State Consultative Council with the aim of holding the State accountable for the actions of its officials. There are no decisions by the State Consultative Council and no statistical data on such decisions indicating the nature of the torture, the injury sustained by the victim or the amount of compensation awarded for that injury.

387. With respect to the ordinary judiciary, the judgement handed down by the Mount Lebanon Criminal Court, under the presidency of Judge Joseph Ghamroun, should be used as guidance (see part VI, sect. (e)).

**(d) Rehabilitation programmes that exist in Lebanon for victims of torture**

388. There is nothing in Lebanese law requiring the concerned authorities (the Ministry of Justice, the Ministry of Public Health and the Ministry of Social Affairs) to adopt a mechanism for the medical, social and legal rehabilitation of victims.

389. The Government's activities in the field of rehabilitation are limited by the scarcity of resources. Indeed, the work done by the concerned ministries stems from personal initiatives and not from any legal requirement imposed on them.

390. The Government is doing its utmost with the means at its disposal to comply with article 14 of the Convention against Torture by working jointly with NGOs in their considerable efforts to rehabilitate victims of torture and ill-treatment, which includes providing them with medical and psychological assistance.

391. The Ministry of Social Affairs has signed contracts with a number of associations for the provision of financial and technical support to persons deprived of liberty, as well as health and vocational rehabilitation services in prisons. As a first step, the Ministry has engaged 16 social workers to work in women's prisons and in Roumieh prison.

**XV. Prohibition of using a statement obtained under torture as an element of proof, except against a person accused of torture as evidence that the statement was made (art. 15 of the Convention)**

**(a) Legal provisions concerning the prohibition of using a statement obtained under torture as an element of proof**

392. Lebanese law does not explicitly provide that an interview record must be invalidated and discounted if the interview was conducted, or a statement obtained from the victim, under torture.

393. The rule in Lebanese law is that no procedure can be found invalid in the absence of a provision of law that permits the judge to make such a finding.

394. The law provides that various procedures undertaken by the judicial police or the investigating judge may be invalidated if they do not comply with the legal requirements.

395. At the stage of the preliminary investigations conducted by judicial police officers, article 47 of the Code of Criminal Procedure provides that any instance in which persons complained of or suspects refuse to make a statement or remain silent must be mentioned in the record and that the officers must not coerce them into speaking or into undergoing questioning, failing which their statements will be invalidated.

396. The law also provides that searches of the homes of persons complained of or suspects are invalid if not conducted in accordance with the legal rules in place.

397. Concerning the stage of investigative questioning, articles 76, 78 and 79 of the Code of Criminal Procedure provide that an interview record is invalid if the alleged offender is not informed of his right to seek the assistance of a lawyer or of the charges against him.

398. Notwithstanding the rule that nothing can be invalidated unless provided for, a principle established by Lebanese jurisprudence and independent reasoning is that an investigation procedure involving detained persons is invalid in the event of failure to observe the rights and basic guarantees afforded to those persons.

399. In Lebanese law, the practice of physical or psychological torture is naturally considered to be a flagrant violation of the rights of persons deprived of liberty and any procedure involving torture is inevitably invalidated.

400. The procedure that might most typically involve torture is that in which a suspect is questioned or a confession extracted from him using force or violence. The record of any questioning during which a confession is obtained by force is null and void and cannot be relied upon as an element of proof. Under Lebanese law, moreover, confession is a means of proof that can be refuted at any stage of a trial. Judges in criminal cases may use any means of proof necessary to establish that an offence has been committed. Even if a confession has been made, it rests with the judge to assess the evidence with the aim of drawing his own conclusion, in accordance with the Lebanese Code of Criminal Procedure.

401. Even in the absence of proof of torture having occurred that would invalidate the record of an interview during which a confession was obtained, the criminal courts may exclude as an element of proof any confession that is suspected of having been obtained under duress and draw their conclusions on the basis of other available evidence in the case before them.

402. The Lebanese judiciary launches an investigation without hesitation if there is any suspicion of torture having taken place in a judicial police station. It also immediately

designates a forensic pathologist to examine any person suspected of having been subjected to ill-treatment or violence in an investigation centre or custodial facility.

## **XVI. Obligation to prohibit acts of cruel, inhuman or degrading treatment or punishment (art. 16 of the Convention)**

### **(a) Extent to which acts of cruel, inhuman or degrading treatment are outlawed**

403. Lebanese law contains numerous provisions guaranteeing humane and appropriate treatment for persons deprived of liberty, the aim being to correct their behaviour and promote their rehabilitation. The fundamental rights afforded to persons deprived of liberty, including humane and appropriate treatment, may not be infringed or derogated from and are recognized by law.

404. Article 58 of the Criminal Code sets out a general principle whereby “any person sentenced to a custodial penalty of at least 3 months shall be entitled to improved prison treatment for good behaviour. The improved treatment shall cover food, type of labour, number of working hours, the silence rule, recreation, visits and correspondence.”

405. Article 46 of the Criminal Code furthermore provides with respect to persons sentenced to hard labour that: “Persons sentenced to detention shall perform work organized by the prison administration on the basis of the choice they made on commencement of their sentence. They may not be employed outside the prison except with their consent and they shall not be compelled to wear prison uniform.”

#### **1. Right of prisoners to fulfilment of the legal requirements concerning their place of custody**

406. The law lays down requirements with respect to prisoners’ accommodation and such health-related matters as the amount of sunlight and avoidance of overcrowding.

407. The law also recognizes as a principle the separation of convicted prisoners. Article 62 of Decree No. 14310 of 1949 provides that: “Prisoners sentenced to permanent hard labour, permanent detention or imprisonment with labour shall be entirely separated from those sentenced to temporary hard labour, temporary detention or simple imprisonment. Except where the prison has only one area of open space, different categories of detainees and convicted prisoners may not take recreation together. Persons imprisoned temporarily may not have contact with other prisoners.”

#### **2. Right of prisoners to daily recreation**

408. Article 60 of Decree No. 14310 of 1949, relating to prisons under the Directorate-General of the Internal Security Forces, provides that: “Prisoners may have a daily recreation period of three hours, at a time set by the administration, supervised by a non-commissioned officer or a gendarme in a specially designated area. They may receive books and magazines providing useful reading material.”

409. Article 42 of Decree No. 6236, relating to prisons and detention centres under the Ministry of National Defence, similarly provides that: “Prisoners shall be permitted to have a daily period of supervised recreation, at a time set by the prison warden, in a specially designated area.”

#### **3. Right of prisoners to medical services**

410. Article 52 of Decree No. 14310 of 1949 provides as follows:

“Prison medical care shall be undertaken by:

“(a) Doctors specially appointed by the Ministry of the Interior after consultation with the Ministry of Health;

“(b) State-employed doctors if no prison doctor has been specifically appointed;

“(c) Municipal doctors in places where there are no State-employed doctors.

“A dentist appointed by the Ministry of the Interior for every 300 prisoners shall provide dental treatment once weekly.”

411. Article 53 of the same Decree further provides that:

“The doctors provided for in the preceding article shall attend the prison at least three times weekly, carry out a full medical inspection, take all preventive measures against epidemic disease, care for patients and visit them as necessary. They shall be consulted on health matters and about the properties of foodstuffs supplied by contractors and sold in the prison shop.

“They shall record their observations in register No. 14.”

412. Article 59 of Decree No. 14310 provides that the prison doctor “shall inspect all places where persons sentenced to labour or persons who have consented to work are to be employed in order to determine whether the health status of those persons permits them to undertake to the work assigned to them ...”.

413. With regard to prisons belonging to the Ministry of National Defence, article 26 of Decree No. 6236 provides that: “The doctors (...) shall attend the prison at least three times weekly, carry out a full medical inspection, take all preventive measures against epidemic disease, care for patients and visit them as necessary.”

414. Article 29 of Decree No. 6236 further provides that: “In his report on the health status of a prisoner who is ill, the competent doctor shall provide details as to the seriousness of his condition and whether his hospitalization should be immediate, expedited or normal so that the necessary action can be taken accordingly.”

415. Article 31 of Decree No. 6236 provides that: “The prison nurse shall administer medications and injections to sick prisoners in accordance with the instructions of the doctor in charge of treatment and confirm that they have been taken.”

416. The legal provisions in place draw attention to particular medical conditions from which prisoners might be suffering. Article 49 of Decree No. 14310 provides that: “The Commander of the Gendarmerie Battalion shall prepare a report on convicted persons affected by blindness, stroke or terminal illness who are extremely elderly or immobile and incapable of activity, or whose dependants include a large number of minors with no relative to care for them, with a view to obtaining a pardon for them or a stay of sentence, in accordance with the usual practice in the case of applications for pardon.”

417. Article 409 of the Code of Criminal Procedure provides that: “If a pregnant woman is convicted, enforcement of her sentence shall be deferred until ten weeks after delivery of her child.” Article 80 of Decree No. 14310 provides that: “Women who are pregnant, breastfeeding or ill and receiving treatment in prison clinics or hospitals may be given special meals, as indicated by the prison doctor.”

418. Article 410 of the Code of Criminal Procedure provides that: “If a custodial sentence or a sentence restricting liberty is imposed on a person suffering from a life-threatening illness, the sentence may be enforced in the prison hospital.”

419. Article 411 of the Code of Criminal Procedure provides that: “If a custodial sentence or a sentence restricting liberty is imposed on a person suffering from insanity or serious mental illness, the Public Prosecution Office may order that he be placed in a psychiatric hospital. The period spent in the hospital shall be deducted from the sentence imposed.

420. “If the illness persists, the legal provisions applicable to mentally ill persons shall be applied to him.”

421. Article 4 of the Penalty Enforcement Act No. 463 of 17 September 2002 provides that convicted persons who are diagnosed while in prison with blindness, stroke or a terminal illness, or who are suffering from an illness that threatens their lives or those of other prisoners, or who are immobile and unable to look after themselves or incapable of activity, may be exempted from serving the remainder of their sentences, irrespective of the offences of which they were convicted, provided that their release does not pose a danger to others.

#### **4. Right of prisoners to maintain personal hygiene**

422. The provisions of articles 109, 110 and 111 of Decree No. 14310 of 1949 and the Standard Minimum Rules for the Treatment of Prisoners apply in this instance.

#### **5. Right of prisoners to see relatives and friends**

423. The right to see relatives and friends is a fundamental right afforded to prisoners so as to ensure that they have continuing social communication with the outside world.

#### **6. Right of prisoners to engage in religious observance**

424. The right of prisoners to engage in religious observance is safeguarded under article 56 of Decree No. 14310, which states that: “In order to facilitate the performance of religious duties by prisoners, imams and priests may be authorized to:

“1. Perform religious ceremonies in prisons on days and at times determined in agreement with the prison warden;

“2. Visit under the same terms prisoners who are patients in a prison hospital or a public hospital, as well as visit other prisoners in the prison courtyard or a designated location.

“All requisite facilities shall be provided for the performance of their religious duties and calm and order shall be preserved.”

425. In the same vein, article 38 of Decree No. 6236 provides that: “All requisite facilities shall be provided to prisoners for the performance of their religious duties and clerics may be permitted to visit prisons at the request of confessional group leaders and on the basis of a proposal by the Army Command, with the approval of the Ministry of National Defence.”

#### **7. Right of prisoners to acquire knowledge and information**

426. Article 67 of Decree No. 14310 provides that: “In every prison, books covering appropriate literary, social and health topics shall be placed at the disposal of prisoners for guidance and enlightenment. These books shall form the core collection of a special library for prisoners.

“A number of teachers from the Ministry of National Education and Fine Arts shall be seconded to the Prisons Department in order to provide teaching and guidance in prisons designated by the Department.”



427. Article 43 of Decree No. 6236 provides that: “Books and magazines providing useful reading material shall be permitted with the approval of the prison warden.”

**(b) Measures taken by Lebanon to prevent acts of cruel, inhuman or degrading treatment or punishment**

428. The Lebanese State is engaged in efforts on more than one front to deal with abuses occurring in prisons, detention centres and custodial facilities, to which end various measures have been taken, in particular:

- The National Assembly approved Act No. 216 of 30 March 2012, which reduced the prison year from 12 to 9 months;
- The Cabinet issued Decision No. 34 of 7 March 2012, in which it approved the national strategy for transferring responsibility for the Prisons Department to the Ministry of Justice. A Directorate of Prisons has been created at the Ministry of Justice and a judge has been appointed (Minister of Justice Decision No. 1455 of 30 October 2012) to supervise its work, in cooperation with two other judges attached to the Ministry. The Directorate’s functions include those of producing studies and developing the legal principles and provisions required for the further regulation and improvement of prisons and custodial facilities. A decree has been drafted that sets out the powers and functions of the Directorate and specifies the details of its judicial and administrative personnel. Officials of the Directorate exercise oversight of the country’s prisons through periodic unannounced visits and prepare detailed reports, together with recommendations, for submission to the Director-General of the Ministry of Justice, who in turn submits them to the Minister of Justice for transmittal to the competent authorities;
- The Directorate of Prisons at the Ministry of Justice has set up a prison complaints system, in collaboration with the Ministry of the Interior and Municipalities, with funding from the UNODC Programme Office;
- In accordance with the right of prisoners to education, the Directorate of Prisons has contracted the Ministry of Education and Higher Education to supply vocational teachers to work in prisons with adults and juveniles and award official certificates qualifying them for work after their release from prison;
- In Roumieh prison, a facility known as al-Dar has been opened to enable prisoners to exercise their right to receive visits from relatives;
- The judicial authorities actively follow up the work of the courts and urge them to speed up judicial decision-making through a mechanism for cooperation between the Ministry of Justice and the Judicial Inspectorate aimed at monitoring and reducing the waiting time for judicial decisions concerning detainees;
- The Institute of Judicial Studies provides work training for prison staff and teaches them how to deal with inmates in a professional manner. Nineteen judicial officers have been appointed to work in prison registries across the country. They compile regular reports on prisoners who have not been investigated or tried or who have been subjected to any act of torture or cruel, inhuman or degrading treatment or punishment. The Ministry of Justice is responsible for forwarding these reports to the competent authorities in the area of prosecution and accountability;
- Judicial committees have been formed in the country’s governorates to review the implementation of the Penalty Enforcement Act No. 463 of 17 September 2002, as amended by Act No. 183 of 5 October 2011, with particular reference to the reduction of sentences;

- The Ministry of the Interior and Municipalities is currently engaged in renovating the country's existing prisons, transferring a larger number of dangerous prisoners to new premises, reorganizing and restructuring Roumieh prison, and furthering the humane treatment of prisoners. The Ministry of the Interior and Municipalities plans to construct four main prisons at a cost of US\$ 240 million;
- A major trial courtroom has been constructed as a model in the vicinity of Roumieh prison so as to speed up important trials;
- In 2008, the Directorate-General of the Internal Security Forces established a human rights section at the Inspectorate-General of the Internal Security Forces with the aim of disseminating a human rights culture and promoting awareness among Internal Security Forces personnel concerning the prevention of human rights violations. In 2009, a working group of the Internal Security Forces was tasked with developing a strategic plan, in conformity with international standards, covering the observance of human rights and the protection of freedoms. In 2012, a code of conduct for the Internal Security Forces personnel was adopted. It determines the duties of those personnel, sets out the legal and ethical norms to be observed during the performance of their duties, governs their relationship with individuals, groups and the authorities, and is intended to achieve respect for human rights and the protection of public freedoms, in accordance with the Lebanese Constitution and international conventions;
- On 16 June 2014, the Minister of the Interior and Municipalities laid the foundation stone for the high-security wing at Roumieh prison, which was made ready for use in mid-2015;
- On 21 August 2015, the Directorate-General of the Internal Security Forces established an office in Roumieh prison for its human rights section. The office is headed by an officer from the section and its functions are to: check that prison staff are properly applying human rights concepts and combating torture; monitor the operation of the prison, with a particular focus on the condition of the premises and their suitability for the needs of prisoners; facilitate access for visitors; keep an eye on the morale of Internal Security Forces personnel and on the situation of prisoners (including in terms of medical services, nutrition, cell conditions and the prison shop); communicate with religious associations for the spiritual benefit of prisoners; and produce periodic reports containing comments and proposals;
- The Ministry of Social Affairs, in conjunction with the UNODC Programme Office, has established a centre for development services at Roumieh prison, where female social workers receive prisoners, complete their social needs forms and hand out packs of personal items. National committees have also been formed to work on improving the health, cultural, educational and social facilities available to prisoners of both sexes, such as by setting up schools inside prisons and lending members of the teaching faculty to provide instruction for prisoners;
- In 2013, the Directorate-General of General Security set up a Division for Humanitarian Organizations and Affairs at the General Security prison with the function of working in cooperation and coordination with civil society organizations and local NGOs in the following areas: assisting the return of victims of irregular migration to their countries of origin; assisting the resettlement of refugees in a third country; processing the applications of asylum-seekers; combating trafficking in human beings and helping victims; and processing humanitarian files pertaining to foreign nationals in Lebanese territory (over 500 of which were processed in 2013);

- The Directorate-General of General Security has introduced additional measures for monitoring the conduct of military personnel in charge of detention centres, who attend courses on human rights law and international law;
- Volunteer military personnel of the Directorate-General of General Security are to receive instruction from a specialized team of the International Committee of the Red Cross on the Standard Minimum Rules for the Treatment of Prisoners and their application in the detention centres run by the Directorate-General;
- The Directorate-General of General Security has set up a hotline for complaints and enquiries from citizens and foreign residents. It is also working on a code of conduct for its personnel, taking into account the legal and ethical standards that must be observed;
- The Directorate-General of General Security has established a committee tasked with inspecting its detention centres in order to ascertain that the Convention against Torture is being implemented and with reporting any breach of its provisions that comes to light, in conformity with article 3 thereof and article 17 of its Optional Protocol;
- The Directorate-General of General Security is implementing a project, in conjunction with the UNODC Programme Office, for the establishment of temporary detention centres in the governorates next to the country's ports of entry by land. The aim of the project is to settle the situation of detainees as quickly as possible, ensure that they are appropriately treated and reduce the period of detention;
- In 2009, the Army Command established an international law and human rights bureau to implement and disseminate the principles and rules of international humanitarian law. In 2015, the functions of the bureau were modified and it was turned into a directorate with additional tasks, including the consideration of any complaints relating to torture and violations of international humanitarian law and human rights law alleged to have taken place inside the military institution;
- In 2015, the Lebanese Army Command created a standing committee to investigate allegations of torture received from international organizations in particular. This committee visits military prisons to inspect conditions, check on prisoners and scrutinize compliance with human rights standards.

429. Added to the endeavours of the State are the substantial efforts of civil society organizations towards renovating detention centres, improving living conditions for prisoners and ensuring that prisoners receive social and psychological assistance. Details of these associations and their activities include the following:

1. Caritas Lebanon provides legal assistance to foreign prisoners;
2. The General Office of Guidance for Prisons in Lebanon offers religious services to prisoners, as does Dar al-Fatwa;
3. Rawdat al-Fayha' School (Tripoli), in cooperation with the Restart Centre, supplies books to the library in Kobbah prison, where a computer room has also been set up but is not currently being used by prisoners;
4. The Restart Centre delivers expert psychosocial support to inmates in Kobbah prison, in addition to giving English lessons to some and supplying art and handicraft materials to others;

5. The Restart Centre has furnished a fully-equipped dental surgery and a modern sewing workshop where prisoners produce uniforms for sale to members of the Internal Security Forces;

6. With funding from the European Union, the Association of Justice and Mercy has built a first-class custody suite at the Zahle law courts (Beqaa governorate) for holding individuals in short-term detention, which is to say in initial custody during preliminary investigations. This suite comprises nine individual cells meeting international humanitarian standards, meaning that every detainee has his own cell and that there is no mixing with other detainees. Each cell has a bed and a shower separated by a half wall from the sleeping area and the surveillance cameras mounted in each cell have a privacy masking feature to protect the personal privacy of detainees. The custody suite also comprises an interview room, a medical examination room and a changing room also used for the handover of personal items, in addition to offices, including a surveillance camera room, and sleeping quarters for court security personnel;

7. With funding from the European Union, the Restart Centre is implementing an infrastructural renovation project in Tripoli men's prison, which is to be connected to the women's prison by a bridge so that the (currently empty) upper floor of the women's prison can be used towards bettering the living and health conditions in the men's prison. Female and male prisoners will remain separate and the upper floor will accommodate a fully-equipped modern health centre providing emergency medical care for inmates, as well as screening facilities for new admissions, who will undergo an initial medical examination before entering the prison. The centre will also deal with any routine health problems experienced by inmates. A prison management manual is to be developed for prison administrators as part of the same project and 100 Internal Security Forces personnel are to be selected, on the basis of specific criteria, for membership of a unit dedicated to working on matters of prison security and the treatment of prisoners.

(c) **Living conditions in police detention centres and prisons, including those for women and minors and whether the latter are kept separate from the rest of the male/adult population**

430. The separation of males, women and children is a principle applied in all Lebanese prisons and detention centres.

431. Living conditions in police detention centres and prisons are not ideal, however, as they are marred by lack of adequate facilities, services and infrastructure, which is a consequence of the political instability and insecurity in Lebanon and in turn the generally adverse impact on efforts to apply the Standard Minimum Rules for the Treatment of Prisoners.

432. The living environment for detainees and prisoners (excluding juveniles) is therefore unhealthy for the following reasons:

1. Severe overcrowding;
2. High humidity in the majority of prison and detention centres;
3. Temperatures that are high in summer and low in winter;
4. Insufficient sunlight, with the result that prisoners are susceptible to conditions (respiratory, pulmonary and dermatological) caused by lack of exposure to direct sunlight and lack of natural light;

5. Failure to observe the legal requirements concerning the right of prisoners to maintain their personal hygiene.

433. The Lebanese authorities are nonetheless aware of their responsibility to improve prison living conditions and are consequently working hard to bring about a positive and palpable change in prisons and detention centres (see part VI, sect. (b)).

**(d) Issues relating to overcrowding, inter-prisoner violence and disciplinary measures against inmates**

434. The aforementioned legal provisions affirm the desire to create a healthy and decent environment for prisoners that conforms to legal, social and humanitarian norms. There are, however, several negative aspects affecting the situation in Lebanese prisons, in particular severe overcrowding, which is due to the following:

1. The country's prisons are essentially equipped to accommodate some 2,500 prisoners but take in over three times that number;
2. Successive Governments have failed to keep pace with this rise in prisoner numbers and to monitor financial resources for the construction of new prisons countrywide;
3. The Syrian crisis has created an increase in the number of detainees and prisoners from among Syrians displaced to Lebanon by the fighting and violence in their own country who take up residence in the informal communities that have sprung up across Lebanon, where the assaults, altercations and breaches of security taking place result in arrests, prosecutions and imprisonments.

435. This overcrowding has prompted incidents of rioting, including those witnessed in Roumieh prison in 2010 and 2011 when prison officers lost control.

436. The overcrowding also reflects the poor security control in a number of prisons and specifically in various wings of Roumieh prison, the country's main penitentiary, where attempts by groups of inmates to take over parts of the prison make it difficult for the security forces to maintain full control.

**(e) Medical and sanitary conditions, most common illnesses and their treatment in prison, access to food and conditions of detention of minors**

**1. Medical and sanitary conditions and most common illnesses and their treatment in prison**

437. The medical service in Lebanese prisons and detention centres is not fully compliant with articles 52 and 53 of Decree No. 14310 of 1949. Lebanese prisoners suffer from the shortage of doctors who provide medical care to persons deprived of liberty and from a lack of essential medicines.

438. The number of doctors attending prisons to provide medical care is inadequate and disproportionate to the number of prisoners. Prison medical services are provided by:

- A general practitioner, who attends three times weekly and singlehandedly treats both prisoners and Internal Security Forces personnel, which is too great a task for one doctor to cope with when the number of prisoners alone amounts to over 700;
- A surgeon, who attends once weekly on Saturday;
- An ENT specialist, who attends once weekly on Thursdays;
- A dentist, who attends once weekly to carry out extractions, which is the only dental procedure available to prisoners.

439. A psychiatrist attends prisons on a non-routine basis only. Some civil society organizations, however, deliver this type of medical care to prisoners on their own initiative.

440. The shortage of doctors, their lack of specialization and the infrequency of their visits to prisons are problematic issues. Another difficulty is that prisoners' requests to be examined by a specialist are subject to administrative delays, even in medical emergencies. Prisoners also suffer from a lack of medications for dermatological conditions, inflammation, sedation, urinary tract problems and cholesterol. Medical supplies, particularly sterile gauze, are likewise in short supply. There is consequently a dependency on medications donated by NGOs to make up for these shortages.

441. The medical care provided in the prisons run by the Ministry of National Defence (Army Command) is to a high standard. Before being admitted to prison, all detainees are examined by the prison doctor or a nurse in order to determine their state of health. A general practitioner and a dermatologist are available to examine detainees throughout the week, including outside their working hours where required, and a psychiatrist is available twice a week. Medications and emergency treatment are administered to prisoners in the prison infirmary, the main military hospital or another hospital, as necessary, in accordance with the legal process in place. All detainees are also supplied with bedding (covers, sheets and pillows).

## **2. Access to food in Lebanese prisons**

442. In the prisons run by the Ministry of the Interior and Municipalities, food is generally served in generous quantities, is cooked in the prison kitchen and is varied. While no special food diets are available for prisoners with chronic diseases (such as diabetes, hypertension or lipid disorder), the prison authorities allow prisoners to receive food prepared by their relatives. The prison water supply is hard and unfit for drinking and is used for bathing and cleaning purposes.

443. In the prisons run by the Ministry of National Defence (Army Command), detainees are provided three times a day with the same good-quality food served to military personnel. During the month of Ramadan, prisoners who are fasting are served with their first meal after sunset. The drinking water supply in these prisons comes from the Dbayeh water plant (which feeds the area of Beirut and Mount Lebanon). It is regularly tested and is not the same as the water used for bathing and cleaning purposes. Detainees are also assured of hot bathing water once every two days and otherwise as needed.

## **3. Conditions of detention of minors**

444. Minors are detained in a specially designated area of Roumieh prison reserved for juveniles in conflict with the law.

445. The conditions of detention of minors are consistent with the relevant standard rules and international norms. Efforts are ongoing to develop the juvenile wing of the prison and ensure that the rights of the minors detained there are exercised, including the right to healthy and sanitary living conditions, the right to physical and psychological health care and the right to education.

446. Juveniles in conflict with the law are permitted to study technical subjects while in detention, which has led to the following measures:

- The Ministry of Social Affairs organized a three-month agricultural course for 16 juveniles to whom it then awarded certificates;
- Two days a week are now devoted in the literacy programme to teaching young girls, in association with the Ministry of Social Affairs;

- Juveniles have access to employment as mechanics, thanks to support from the UNODC Programme Office in Beirut for the purchase of vehicle spare parts for use in practical classes and of teaching materials and office items, such as ink, pens and stationery;
- The UNODC Programme Office provides funding for vocational courses in sewing, crochet and knitting at the centre for young girls;
- The number of teachers seconded by the Ministry of Education and Higher Education to work with juveniles was increased to eight, starting from the 2013/14 school year.

447. Minors in detention furthermore benefit from all kinds of medical services and from awareness courses organized by civil society organizations on such topics as respiratory, sexually-transmitted and communicable diseases, narcotic drugs and tobacco control.

448. The essentials for maintaining personal hygiene while in prison, such as soap, shampoo, towels, bedding, underwear, toothbrushes and toothpaste, are supplied with support from the UNODC Programme Office.

449. Syrian juveniles are also assured of psychological follow-up, thanks to support and funding from the UNODC Programme Office.

450. Efforts are under way to further pursue the psychological follow-up, which is limited to a very small number of juveniles.

451. Telephones for use with prepaid cards have been installed in the juvenile wing so that minors are able to contact their families.

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