

UNCAT60 meeting on Lebanon

Palais Wilson, Geneva

20 – 21 April 2017

Questions by members of CAT

Mr Bruni

When is the national preventive mechanism going to be established?

How many complaints of torture have been received since 2014? If your system of complaints is unified, could you give an example? Once the complaint is submitted, what happens to it? Is it submitted to judicial proceedings?

Could you give more information on the right of detainees to legal assistance? According to Paragraph 153 of the report, detainees have the right to meet a lawyer, however there is no information on when the detainee has access to a lawyer.

What kind of monitoring mechanism exists for prisons run by internal security forces (ISF from now on)? Is it open to international and national independent visitors?

Incommunicado detention is the perfect place where torture happens. Is it solitary confinement or is it secret detention as in the English document? In what concrete circumstances a person is placed in incommunicado detention? How long for and how many people are there today and for what reason?

30 days of solitary confinement is too much according to international standards, it damages the person. According to Rule 43 of UN standard for treatment of prisoners establishes that any solitary confinement going beyond 15 days could be assimilated as a form of torture or inhuman and degrading treatment. This rule was accepted unanimously by the international community. Can the delegation give some clarification on this matter?

Is there in Lebanon a procedure against order of expulsion by directorate of general security considered and decided by independent judicial authority? Under article 3 of convention principle of non-refoulement is absolute and respected for people considered as dangerous for public and safety of country. Is there a judicial authority accepting a recourse?

Mrs Belmir

Is the government of Lebanon working on punishment other than imprisonment?

How can we make the amendments regarding military court and the trial of civilians in line with the independence of the judiciary?

What can you say about women detainees who are not managed by female officers and prison staff?

Some people are being trapped in locations, they seem to be gathered together in tight confinement, security not guaranteed, how can we find a solution to this problem?

When is the lawyer required to be present?

Will the government review the possibility of bringing civilians to military tribunals?

Mrs Gaer

What happens to the perpetrator of rape and kidnapping when he marries the person he has raped or kidnapped?

The committee has noted some concerns regarding specifically designed tools for torture in prisons and there is medical evidence of heavy scarring to confirm that. Could you provide clarification on that following paragraph 31 of the report?

There have been pictures following Hezbollah carrying out actions of police. Is the government aware and approving of Hezbollah operating its own detention centres? What is the relationship between Hezbollah and the government of Lebanon? Is Hezbollah empowered to carry out some functions on the government's behalf. How do you ensure that their actions are carried out with compliance under convention against torture? Have you sought to monitor conditions in detention centres monitored by Hezbollah? Can you tell us more about them? Have there been any investigations in facilities using tools of torture? Has any Hezbollah member been accused of these acts?

Who oversees the ISF and the military services?

Ministry of justice has special complain section. How many complaints have come in? How many have been investigated? How many times have these sections of complain been used?

Mrs Raku

IS the government going to improve conditions in detention centres, especially those of pre-trial detentions? The CAT is concerned regarding long pre-trial detentions lasting up to 1 year.

Could you provide for an update on the condition of detention of women and girls? Separation of minors and adults is not implemented and minors are being enslaved by adult inmates and forced to provide humiliating and sexual services. Could you clarify and provide some statistics?

Mr Chang

Prisoners have choice of 3 doctors in terms of their affiliation. Doctor of ministry of interior, doctor employed by state, and the municipal doctor. Given overcrowding, can you implement laws and provide for all prisoners? Are you planning to provide the same medical treatment to refugees? What are the laws like in terms of treatment of refugees for medical requirements?

Mr Heller

What is the legal framework that regulates activity of political parties and political movement?

Chairperson

Do you have any numbers of requests made? Findings of medical investigations? Routine of medical examination?

Any statistics whether the mechanism is working? Situation of overcrowding mainly due to foreign prisoners, does it mean that routine examination does not take place or that only new arrived prisoners are examined?

Judges and members of judicial police are trained in taking statements of person. Existence of such procedures paramount to prevent that confessions are taken under coercion in court? Do these procedures exist? Have you been able to see that more testimonies under coercion have been dismissed in court?

How will it change procedure on forensic examination? Forensic doctors become more independent? Who will hire and fire them? Larger degree of independence of such examinations? How would you ensure the independence? Who would monitor examination and forensic unit?

Implementation of safeguard monitored by cassation, normally considered difficult whether legal safe guards are given, who can prove that police officer offered suspect to call lawyer, inform family, or is in need urgent medical treatment? It is essential to provide a close monitoring through videos before, during and after interrogation. This is the most effective way to prevent torture

Special Rapporteur Mr Touze

Do all detainees have access to a lawyer? If not, will the authorities give access?

Have you planned to set up a video system to monitor custody setting?

Alkarama presented the case of Mr Ziad Aldori, who went to Lebanon and was arrested. What measures can be taken to prevent violation of convention and to prevent persons registered with UNHCR to get arrested?

ON the definition of torture: in the draft bill the definition is limited to certain circumstances, it does not criminalise torture in all circumstances. What can you say against this?

Penalties handed down to persons committing acts of torture must be fair to the crime they have committed. The act that must be criminalised and the penalty cannot be in connection with the repercussion on the person

Can the delegation clarify the law on witness protection?

On evidence on torture: Article 47 prevents evidence being acceptable in court. There cannot be a conviction because the victim cannot provide evidence of being tortured. You ask people of providing evidence of being tortured and when they cannot there is no conviction. Can you clarify on this matter?

The improvement of law provides for detainees protection from torture, what about video and filming, can that be embodied in your law?

On medical exam of LGBTI: it is said that the medical exam is received against the detainees will and it has to be paid, what is the truth?

On individual cases: there is clear determination of Lebanese authorities to abide by human rights protection. The allegations on acts of torture must be given clarification. All cases are documented by NGOs, there is need for exchange between the two parties.

Mr Hani

What is the maximum length of disciplinary actions? Could you present more details on disciplinary actions taken in prisons and how solitary confinement is following the law?

The government acknowledges existence of secret detention centers. I do not know if it is mistranslated from Arabic to English, but the report states so. What can you say about that?

What guarantees that hard labour does not become a form of torture, abuse or a form of inhumane treatment?

How can non state actors obtain the power to arrest?

The new draft of the bill on torture is a retrograde step compared to the first version of bill. Other articles must be incorporated. Can you clarify upon this matter?

Can the delegation send some figures of overcrowding prisons to CAT?

What measure does the state take in order to adopt measures brought into line and properly in line with modern evidence collection techniques approved internationally?

Why isn't the government removing hard labour as a punishment option?

Do you have any figures regarding peaceful protests?

On body searches: a recommendation by CAT would be to avoid body searched and use scanners instead. Recommendation 338S is related to body searches, do you follow it?

Answers by the Lebanese Delegation

HE Ambassador Assaker

About Hezbollah's relationship to the government, these questions are political and not in the jurisdiction of CAT. Hezbollah is part of the government and major parliamentary group.

Member of Parliament

Committee should be established by the cabinet but competence not absolute to the cabinet. Relevant authorities: BAR association, union of physicians and other professional entities can submit name of candidates and cabinet can choose. Criteria of nominations: law 62 of 2016 stipulating national committee of Human Rights, compliant with Paris principles. Ministry of justice drafted decree determining wages and salaries.

Representative of Ministry of Justice

On the criminalisation of torture, the Lebanese law does not contain laws that defines torture or content of such crime. The Lebanese government focuses on respecting human rights in general and protecting human rights against all crimes of torture. Torture subject to penalty if bases of crime is compliant with all crimes penalized by the Lebanese law. The crime of torture is not specified; however the judge is compelled to punish those perpetrating acts of torture. Comprising physical and psychological torture. There is no text mentioning punishment for perpetrators of torture on psychological harm, however in current Lebanese laws there are mechanisms that allow punishment: crimes of threatening. Criminal code punished people who perpetrate acts of psychological crime used by security officers or people enjoying authority against people deprived of their liberty.

It is proven in legal text from all decrees that order by a superior to an officer to perpetrate acts of torture are illegitimate. Officers can refrain from operating act if considered illegal.

The Lebanese delegation wants to reiterate that:

The Lebanese Parliament is not due to any deadline to adopt the law criminalising torture. The draft bill criminalising torture is being discussed and almost ready to be passed by the Parliament. The draft bill on criminalising torture is not limited on article 101 but comprised of other amendments of criminal procedure, authorisation to prosecute civil servants, etc. The criminalisation of torture comprised all levels of investigation, prosecution and sentence. The definition of torture is compliant with article 1 of CAT convention. The principle of proportionality of sentence and gravity of crime, from 1 to 20 years of imprisonment. The draft bill defines crime of torture as crime subject of prescription while taking into account rights of victim and capacity to face perpetrators of torture. There is need to change the date of the start of prescription: prescription starts when victim leaves prison. There is no victim protection program in Lebanon but the judge can take additional measures to provide for this protection. The acts of torture are not legal no matter the officer's rank, these acts are not justifiable by urgency or national security.

Public prosecutor

It is difficult to prove acts of torture. Lebanon has no systemic acts of torture in order to take confessions from people arrested. Authorities have no experience perpetrating torture or capacity to hide acts of torture. Detainees have right to be examined by forensic doctor at all levels of investigation in order to prove existence of acts of torture and we often receive request from family or lawyer of detainees. If public prosecutor extends detention to four more days he has right to another doctor's visit.

There is no exact statistic inside Lebanon about the number of prosecutions against perpetrators of torture inside and outside of Lebanon, but big number of prosecutions and sentences in this regard. Outside Lebanon there are no proofs that they're being done by Lebanese abroad. There are no allegations in this regard.

A person has the freedom to defend themselves by not replying when being interrogated. If arrested person refrains from answering, no member of police has the right to compel them to reply under duress. If arrested says he confessed under duress in this case the tribunal has the right to assess a confession and even ignore it or nullify it. The confession is not considered as the only proof. If detainees said he confessed under torture this is proof of transparency and that he can abandon the initial confession if he was really tortured in the first place.

Chief of training session at ISF

The general security combats torture in any case; crime of torture is denounced regardless of the rank of officer. Torture leads to nothing.

Confession under torture: all situations of cases under tortured are followed up by military. We do not have impunity in our country, however the created complains office as it appears in report resting in principles enshrined in international law. There is a new office being upgraded respecting intern standards in the field. People will appropriately be trained. Setting strategic program.

Judge

Members of council are appointed by executive branch. Council is not limited in independence. The judges appointed are among the best within judicial system in Lebanon. No arbitrary nature in the appointment. Judges cannot be appealed but there is a bill to change constitution of this body to make it possible so that people would be able to appeal.

Lebanese Delegate

On military courts. Law on military jurisdiction that give powers to military courts under article 24. Spying, betrayal, trafficking: prosecuted under the military court. Any person associated with these crimes can be brought under this military court, be it a civilian or military. Military courts have jurisdiction to cover terrorism crimes.

Minors violating law must be prosecuted with adults. Military courts don't hand down any judgement. Refers minor to juvenile court who then decides. Social worker always present in questioning and investigation cases. Decisions handed down by military courts can be reviewed and challenged, they are not final.

Judge

Regarding Corruption. Independence of supreme council of judiciary, made up of 1st court judge as well as head of judicial inspectorate body. Five members appointed by cabinet. If corruption fuels torture the judiciary brings members to account. Whenever judge suspected of being corrupt they appear in front of disciplinary body. Judges have been convicted and removed. There are no cases of torture linked to cases of corruption.

Ministry of interior

On Syrian refugee detained and tortured because of his sexual orientation. Complain by Human Rights watch. Investigation carried by the government. Prisoner detained by ministry of defence because he had a false ID thought belonging to terrorist cell. Not imprisoned but incarcerated in military police. Private establishment where his health is described. He was not detained under his sexual orientation. Not victim of crimes as alleged by Human Rights watch. All medical examinations on detainees in prisons follow power of administration. The doctor is appointed but no payment needed.

Representative Ministry of Justice

On Persons deprived of their liberty. Guarantees are awarded to persons deprived of their liberty. Under Lebanese law, general guarantees are recognized to all detainees without exception. General rights: article 47 of criminal courts embodies rights of detainees. Right to have authority carry out the investigation. Police officer cannot launch investigation unless decision handed by competent prosecutor. Detainee must be apprehended immediately. The detainee must know about the content of accusation. The right to a lawyer is made effective. Lawyer must be present in interrogation. If justice judge is there the lawyer cannot be there but he can discuss with the detainee after or prior trial. Respected rights of detainees at all time.

Rights of juvenile respected as well. Officer interrogating must make sure the detainee is a minor and not an adult. The detainee must be treated in humane fashion, must not make minor afraid and must ensure that psychological comfort is protected. When the minor is arrested, family must be notified and social worker must be called.

The government ensures to respect physical and psychosocial state of women because they have different needs. We must take into account different needs of women. Treat them differently, not harshly or violently.

Regarding aliens: foreign detainees who do not speak Arabic have the right to an interpreter. Officer must inform embassy of person detained. Consular assistance provided. Keen to ensure no racial discrimination is being used.

Lebanese delegate

On arrests by non-state bodies in Lebanon. Lebanon believes in provisions against torture and it abides by provisions of CAT. There is no systematic torture in Lebanon, but there are individual cases. ICRC has access to Lebanese prisons. Civil society has access to prisons and are entitled to communicate with prisoners. Judges carry out regular visits. There cannot be systematic torture in Lebanon. Police works under supervision of these judges. There is proof of no systematic torture. All judges report to their bosses on this matter in order for torture not to occur. Prosecutor of cassation court can require that financial judges and state commissioners to give account. Comments then entitles to prosecute people who break law.

There are no detention centres belonging to non-state actors. The government is open to receive any cases of torture.

Representative of ministry of justice

Report of Lebanon on arbitrary detention. It is said that there is no respect of custody time frames: cassation court prosecutor has disseminated circles to all authorities stating that it is primordial to respect time frame custody in all detention centers. Vital to respect 48h deadline that can be prolonged to an additional 48h if it is justified.

Rights of detainees: cassation has right to monitor operation of police. Public prosecutor has to act every time they receive illegal acts information. When allegation proved then appropriate decision must be taken.

Custody: prosecutor applies article 111, clarifies alternative measures that can be used. Prohibition of travel and access to certain locations are being normally used.

Secret detention centers. Paragraph 343 of report, not be interpreted without taking into account the two previous paragraphs, 341 and 342. The government mentions solitary confinement and not secret detention centres.

Colonel

There are no secret detention centres nor torture chambers in Lebanon. Legal prisons are set up. Detention Center "Ashrafi" (?), located inside a building under hospices of state information services, this centre respects all rules. No problem of hard labour being used and if there is, it is not seen as torture.

Lebanese delegate

Refugees in Lebanon: principle of no-refoulement, respects it fully as required by our domestic law and interest of refugees. Refugees properly managed in humane and respectable way.

Details on deportation: individuals receiving criminal sentence in Lebanon, no matter their origin, might receive disciplinary sentence of deportation if they find during judgement that individual might be subject to torture if deported. There is a number of specific cases concerning Syrian refugees where sentencing have not been applied because of that risk.

Judge

On situation of minors in detention centers and prison overcrowding, statistics of prisoners in custody and serving sentence. Prisoners rights, legal doctors and prisons's staff.

Data (2017):

- Male prisoners: 5924 male prisoners, 2500 received sentence 3333 are awaiting sentence
- Women: 270 female prisoners, 171 awaiting custody, remaining serving sentence
- Minors: 147 being held, 174 serving juvenile sentence
- 62% of these prisoners are from Lebanon, others are not

- 24% of those who aren't Lebanese are Syrians, 43.7% of Male prisoners are Syrian, 37% female prisoners are Syrian.

In 2014 number of Syrians and Lebanese prisoners 3073, dropped to 2327 in year 2016. 155 convicted this year. Number of prisoners is dropping. 643 Palestinians in year 2014 and 2016 dropped to 548 prisoners. This dropping as well.

Minors: Children are never allowed to be in contact with adults, in no situation, prisons or cells. Any incident which develops is immediately responded by police. Always separate children from adults. Examples: children in Lebanese prisons under supervision of ministry of justice. The ministry is responsible for minors in danger as well.

The training across all prisons carried out by government. Courts staff receive info relating rights of prisoners and those awaiting trials. They are required writing reports. Visits unannounced carried out in prisons and pursued to go out. People carrying out visits write reports. Close cooperation of ministry of justice and prison staff.

Committee for reduction of sentences in place to reduce them and effective between 30-35% of sentences. Committee organises training and meetings for prisoners in order to raise their awareness on their rights and improve their conduct in the prisons. Monitors daily situation in prisons, organises cultural activities and leisure activities. It allows prisoners to return to society and be reintegrated.

Medical staff: closely monitored, NGO "RESTART" in close collaboration with doctors.

Training centers provided with equipment, social aid and support, properly trained trainers. Office of ministry of justice in Tripoli supports trainers and legal doctors to give them access to all prisoners.

Judges: several trainings organized, sessions relating public interest, prisoner's interest, programmes training judges in implementation against torture in cooperation with RESTART. Guaranteeing prisoners' rights.

Representative of Minister of Interior and Justice

There is a new mechanism to receive complaints: office to receive complaints in the biggest prison in Lebanon. The office collaborates with drugs office in Beirut. Complying with transparency and international standards.

The violence between inmates is an international problem, seen in all prisons. The government is dealing with it case by case.

Visits by NGOs are allowed especially after establishment of NHRC. Visits granted to all and shouldn't stop in future.

Living conditions: high degree of transparency, one of most complicated problems facing on daily basis, thriving with available measures and capacity to improve living conditions. Collaborating UNDP, ICRC, etc.

Sexual harassment to girls and rape in prisons: all det centers pre trial and prisons constantly monitored, rejected and unacceptable practice. Many picture these places as places of rape.

Solitary confinement: part of our decree of 4310, can be imposed on the convicted person for up to 4 days, however head of gendarmerie has right to impose solitary confinement up to 30 days.

Difference between secret prisons and solitary confinement: no secret prisons but only solitary confinement

Women prisons: male guards guard prisons from outside, inside guards are female or women in charge of monitoring all activities.

Colonel

Rami Aisha: arrested for possession of arms. He is relative of Lebanese officer's wife. No complaint they were subject of beating. Sentenced by military tribunal. Right to appeal but request for appeal rejected for legal reasons.

Hassan arrested 2006 crime of terrorism, referred to prosecutor, not tortured, no complaints.

Leila Kayaji: confessed to what was published on media websites totally fabricates, aimed to get sympathy of journalist to find job. Allegations fabricates.

2 minors supporting sheik al hassin: 2013, 21 army staff killed and arrested nr of terrorists. Immediately arrested by military prosecutor referred later to military tribunal. Prosecuting them and still under trial. No information about 2 minors subject to torture.

Walid Diab, 2014 arrest for crime of terrorism. No complaint that he was victim of torture.

Torture by military police in 2017, no clear indication of this issue.

Lebanese delegate, on domestic workers

Measures aiming to rights of domestic workers. Establish hotline at ministry communicated to workers as they arrive at airport. They enjoy every right.

Training within all security agencies: code of conduct amended and in regard to intern standards of human rights.

Training is internal matter, deciding to organise and cancelling training session are linked to different conditions. Training mentioned cancelled was actually postponed, ISF was not ready at that time but was held later.

Public prosecutor

The rights of detainees are fully implemented, close and carefully monitored. Detainees have access and right to a lawyer, can make calls, and their family members can approach the judge.

On individuals arrested by non-state actors: they have been arrested by state and not non state actors. There is right by citizens to make arrest and present them to police. No torture taken into account and the case is still being processed.

Videos and recordings are tools used regularly, the government encourages its use in detention centers.

The government is not against the idea of changing the practice of hard labour.

On violence during demonstration: excessive force has not been used by agents and law enforcement, violence is instead being used by demonstrators against authorities and there have been attempts made by authorities to peacefully separate conflict.

The delegation confirms that no person or party has come to office of judge alleging that they have been arrested by non state actor, no such complaint has been received.

Representative of Ministry of Interior

There is no clear timetable on when the government will implement use of videos in court but the approach will be explicit and human rights focused. There is need to establish legal framework for procedure to use videos in court.

The government agrees that measure of 30 days isolation runs counter to fundamental guarantees enshrined in Mandela rules, these rules are taught to officials. The 30 days isolation option is now OBSOLETE.

Excessive use of force: ISF dispensing training to all officers to uphold instability in country, they are taught how and when use force

Representative of Ministry of defence

All individual cases mentioned, how come they all received conviction by independent courts after all remedies have been exhausted? 100 of innocents detained, tried and then released because there was not enough evidence. Innocent people acquitted, none of them have pressed charged and didn't complain of torture. None complained, all of them entitled of compensation. Why doesn't CAT mention this?

There is full cooperation between government and civil society.

Judge

The bill on torture will include all CAT has suggested for definition of torture.

There are different scales of sentencing: penalties commensurate with seriousness of crime

Witness protection: emergency measure to protect victim and witnesses against intimidation, reprisal, etc. During hearing of victim, they are protected and their physiologicalmind-setis taken into account, the law is totally clear. Rehab of victims to be guaranteed.

Recommendations after CAT's 2013 visit to Lebanon:

- Lebanon commented clearly on report on CAT but there was no response from CAT on Lebanese comments
- 2014 report on visit of CAT by Lebanon, response on recommendations. Not all recommendations were accepted, the government has dutifully addressed all recommendations in spirit of cooperation, however there was no comment from CAT on the reaction
- Lebanese government claims caring about CAT observations with openness