

AMNESTY INTERNATIONAL

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LEBANON: A HUMAN RIGHTS AGENDA

Nine months after his appointment, Lebanon's Prime Minister has finally been able to form a cabinet that will present its agenda to parliament on 12 February 2019 for a vote of confidence. The parliament itself was elected after a five-year delay; until then Lebanese voters had been barred from heading to the polls.

For too long, people in Lebanon have suffered the consequences of political deadlock, legislative gaps and a lack of accountability, which have all contributed to ongoing human rights violations. The past year alone, the subsidized housing program managed by Public Corporation for Housing (PCH) collapsed, leaving many individuals without adequate housing, as the PCH is the only official body providing housing for middle and low-income citizens. Activists, journalists and other individuals were detained and interrogated on the basis of social media posts and were forced to sign pledges – with no legal foundation - stating that they would refrain from certain acts as a condition for their release ; migrant domestic workers continued to face exploitation and abuse under the restrictive *kafala* or sponsorship system; the new anti-torture law passed over a year ago remains ineffectual, at a time when reports and testimonies reveal an ongoing practice of torture and other ill-treatment in detention centers.

Lebanon has nonetheless taken some positive steps towards an improved human rights situation in the past months. Most notable in September 2018, Lebanon's parliament ratified the International Arms Trade Treaty aimed at regulating the international flow of arms to reduce the human suffering that it causes. In November 2018, the parliament passed Law No. 19 establishing a mechanism to investigate the fate of thousands of people who went missing or were forcibly disappeared during the country's armed conflict (1975-1990) and criminalizing for the first time the act of enforced disappearance. It was a long overdue acknowledgement of the families' right to know what happened to their loved ones and came after decades of civil society campaigning led by the families of the disappeared. In September 2017, the parliament passed Lebanon's first anti-torture law, criminalizing torture. And a month earlier, after sustained campaigning by feminists and women's rights organizations, Lebanon finally abolished article 522, also known as the "marry-your-rapist" law which had allowed kidnappers and rapists to escape punishment for their crimes by marrying their victims.

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The newly formed cabinet must act and build on existing reforms. With the new government in place, Lebanon finally has its three branches fully functioning, and has a fresh opportunity to operationalize its duty to respect, protect and fulfill the rights of people in the country, including by aligning itself with international commitments and obligations spelled out in the conventions it is party to, most notably the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), and the International Convention on the Elimination of All Forms of Racial Discrimination.

TOP NINE AMNESTY INTERNATIONAL RECOMMENDATIONS TO THE LEBANESE AUTHORITIES

Amnesty International today calls on the Lebanese authorities to prioritize human rights and specifically to address nine core issues the organization believes are essential to ensuring a more just and equitable future for Lebanon.

WOMEN'S RIGHTS

Despite article 7 of the Lebanese constitution stating that all citizens equally enjoy civil and political rights and are equal before the law, and Lebanon's ratification of the Convention on the Elimination of All Forms of Discrimination Against women (CEDAW), women remain at risk of discrimination in practice and in law. The constitution, for one, does not explicitly prohibit discrimination on the basis of sex and gender and makes no reference to gender equality. Second, since its accession to CEDAW, Lebanon has to this day maintained three reservations to the Convention, which significantly weaken Lebanon's commitment to respect, protect, and fulfil women's rights. These are a reservation regarding article 9, paragraph 2 which grants "women equal rights with men with respect to the nationality of their children;" a reservation regarding article 16, paragraph one, sections (c), (d), (f) and (g) which grant women equality with men in relation to marriage and family relations including divorce, child custody, guardianship, adoption as well as choosing a family name; and a reservation on article 29, paragraph one, which governs the administration of the Convention and arbitration in the event of a dispute. With that, and despite the pledge made by the previous government in its ministerial statement to protect women's rights and gender equality, including by working towards eliminating discriminatory laws and mandating the National Human Rights Committee to ensure implementation, women remain at risk of discrimination both in law and in practice to this day.

Women also face discrimination under the Penal Code and personal status codes. Women's rights organizations have reported that provisions 487 and 489 of the Penal Code that criminalize adultery, are discriminatory in practice, with more women being charged under the law than men. They also reported that the law was sometimes used by husbands and other male family members to seek revenge.

Reproductive health services specifically needed by women, such as those relating to abortion, are criminalized under articles 539-547 of the Penal Code. In practice, abortions are generally obtained through medication and in private clinics. The high cost of abortions and the lack of information about them remain barriers to women in vulnerable situations, such as women living in poverty, as well as refugee and migrant women.

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In August 2017, after sustained campaigning by local women rights groups, the parliament repealed article 522 of the Penal Code which allowed a person convicted of kidnapping or rape, including statutory rape, to escape prosecution if they marry the victim. Civil society organizations continue to call for the repeal of articles 505 and 518, which allow for marriage with minors aged between 15 and 18. Marital rape is not criminalized in the recently enacted Law 293 on the Protection of Women and Other Family Members from Domestic violence and article 503 is not aligned with international law and standards as it defines the crime of rape as “forced sexual intercourse [against someone] who is not his wife by violence or threat.” The 2014 domestic violence law does not explicitly criminalize non-consensual sex, leaving non-penetrative sexual harassment ill-defined and marital rape non-criminalized. Furthermore, the Penal Code fails to include a consent-based definition of rape in line with international standards.

The Internal Security Forces (ISF) as well as the General Security (GS) continue to harass and detain sex workers. According to a report by Soins Infirmiers et Développement Communautaire (SIDC), a health NGO, out of 50 women engaging in transactional sex surveyed, 45 claimed discrimination or abuse in public health care settings and 10 reported that they had faced physical abuse in detention centres or police stations.

In order to respect, protect and fulfil the rights of women in Lebanon, Amnesty International calls on the authorities to:

- Amend law 293 criminalizing domestic violence to include the criminalization of marital rape
- Repeal articles 505 and 518 allowing marriage with minors
- Adopt a law criminalizing sexual harassment
- Guarantee the equal rights of women, in law and practice, by revising all discriminatory provisions in the Penal Code, particularly articles 539-546, 487-489, 503 - 504 and 505-518; and include a definition of rape that is defined as any sexual act involving penetration without consent, in line with international human rights law and standards.
- Amend the personal status code to ensure the equal rights of women in relation to divorce, annulment, guardianship, child custody and inheritance, including Lebanese nationality Law No. 15 of 1925, so as to grant Lebanese women’s children and spouses citizenship rights in conformity with articles 2, 3, 24 and 26 of the ICCPR and article 7 on the Convention on the Rights of the Child;
- Withdraw reservations to CEDAW

RIGHTS OF LESBIAN, GAY, BISEXUAL, TRANSGENDER, INTERSEX AND QUEER PEOPLE

In July, a district court of appeal ruled that same-sex consensual intercourse was not a criminal offence, on the grounds that it did not fall under the definition of article 534 of the Penal Code, which criminalizes “sexual intercourse contrary to nature.” In 2007 and in 2014, there had already been two judiciary decisions to the same effect – but despite these rulings, the very existence of article 534 means LGBTQI individuals remain at risk to prosecution.

According to one leading civil society organization, different security apparatuses continue to harass and abuse LGBTQI people, especially in refugee and migrant communities, resorting mostly to article 534 but also to other laws in relation to “debauchery”, “prostitution” and “disturbing the public order.”

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In May, the ISF banned several activities organized by “Beirut Pride” to mark the International Day against Homophobia and Transphobia and detained the organizer overnight. The ISF cited security concerns following threats by a radical Islamic group.

In October, the GS attempted to shut down a conference that hosted activists working on issues of gender and sexuality from the Middle East and North Africa, organized by the Arab Foundation for Freedom and Equality (AFE). After failing to make AFE’s executive director sign a pledge to cancel all conference activities, GS officers ordered the hotel to shut down the conference. The GS did not explain their concerns, but the action also followed threats by a radical Islamist group.

To protect LGBTQI individuals’ rights to safety, organizing and campaigning, Amnesty International urges the Lebanese authorities to:

- Abolish article 534 as well as other laws being used to harass LGBTQI individuals,
- Stop the crackdown on LGBTQI individuals and organizations, and safeguard their freedom of expression and assembly

REFUGEES

Lebanon hosts 1.5 million refugees, including 948,849 Syrian refugees registered with the United Nations High Commissioner for Refugees (UNHCR). A government decision of May 2015 continued to bar UNHCR from registering newly arrived refugees.

In August, the government facilitated birth registration for Syrian refugees by waiving a requirement that children born in Lebanon between January 2011 and February 2018 had to be registered within a year of birth and that parents had to obtain court documents to register the children - a positive step towards minimizing the risk of statelessness for the children of refugees.

However, Syrian refugees continue to face serious financial and administrative difficulties in obtaining or renewing residency permits, exposing them to a constant risk of arbitrary arrest and detention. Added to serious livelihood hardships, these are pushing refugees to return to Syria before it is safe for them to do so. The international legal principle of *non-refoulement*, binding as customary law, forbids states from forcing people – directly or indirectly – to a place where they are at risk of serious human rights violations.

In addition to Syrian refugees, Lebanon also hosts tens of thousands of other refugees, most of them long-term Palestinian refugees, with more than 174,000 refugees from Palestine and 16,000 from Iraq. Palestinian refugees in Lebanon remain subject to discriminatory laws that exclude them from owning or inheriting property, accessing public education and health services, and working in at least 36 liberal professions. The National Social Security Fund obliges every Palestinian refugee to pay all fees (23.5% of the value of salary) and only benefit from the end of service indemnity (equivalent to only 8.5% of the paid value).

The Lebanese state denies Palestinian refugees their social, economic and political rights, under the pretext that granting civil rights to Palestinians would constitute a prelude towards their permanent settlement in Lebanon. Despite many legislative amendments throughout the years, Palestinian refugees are kept in an extremely vulnerable situation in Lebanon, suffering from acute socio-economic

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deprivation. At least 3,000 Palestinian refugees who do not hold official identity documents face further restrictions and are unable to register births, marriages and deaths.

Amnesty International calls on the Lebanese authorities to:

- Provide international protection to Syrian refugees and ensure that they are protected from *refoulement* to a risk of serious human rights violations,
- Allow UNHCR to register new Syrian arrivals,
- Ensure suitable and dignified living conditions for Syrian refugees in the country as required by international law, with the assistance of, and in cooperation with, the international community,
- Facilitate the access of Syrian refugees to residency cards,
- Grant Palestinian refugees the right to own property, access public health and education facilities, and benefit from Social Security,
- Remove restrictions in syndicate laws and by-laws creating an obstacle for Palestinian refugees to work in liberal professions.
- Ratify the 1951 UN Refugee Convention and its 1967 Protocol

MIGRANT DOMESTIC WORKERS

The sponsorship system that governs the work and residency of migrant domestic workers (MDWs) in Lebanon, known as the *kafala* system, is a collection of decrees, administrative regulations, norms and customary practices that regulate the relationship between the worker and employer. The *kafala* system renders migrant domestic workers deeply vulnerable to a range of serious abuses of their rights. Through *kafala*, the state delegates to the employer the responsibility to manage both the migrant worker's immigration status and employment status.

This tie between residence and work permits makes the immigration status of the MDW dependent on the contractual relationship with the employer, enabling the employer to exercise significant control over the MDW's life. The employer is responsible for issuing and renewing the MDW's visa, work and residence permits. MDWs need their sponsor's permission to change or leave jobs and once their employment contract is terminated they directly lose the legal basis for their residency and are at risk of deportation without a process to challenge such a decision. Also, article 7 of the Lebanese Labour Law explicitly excludes domestic work, denying thereby domestic workers any labour protections otherwise afforded to workers.

To protect MDWs rights, Amnesty International calls on the Lebanese authorities to:

- Amend article 7 of the Labour Law to extend labour protections to domestic workers,
- Adopt a fair immigration system so that:
 - MDWs' entry, residence and work permit are not tied to a specific employer and they are responsible for renewing their own visas, work and residence permits
 - MDWs have the right to resign and terminate their employment contract at will, without losing valid immigration status
- MDWs have the right to change employer without the consent of their current employers, and without losing valid immigration status,
- Adopt ILO recommendation 189 on Domestic Workers and incorporate its provisions into domestic law

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- Revise the Standard Unified Contract to (1) eradicate the current inequality between a worker and the employer when ending the contract and (2) include the right of MDWs to leave the household/ workplace during rest hours and days off, without having to notify or seek permission from the employer,
- Establish at the Ministry of Labour an inspection and compliance unit with a facilitated complaint mechanism and compensation schemes,
- Provide legal aid for MDWs who are subject to exploitation and abuse,
- Ensure that MDWs' visas are extended during the course of pending legal procedures.

IMPLEMENTING THE ANTI-TORTURE LAW

In September 2017, Lebanese parliament passed Law 65 criminalizing torture. The new law defines torture, stipulates the inadmissibility of statements extracted under torture, urges the public prosecutor to act on complaints or notices of torture within 48 hours, establishes the right to rehabilitation, and declares torture to be a crime non-justifiable by necessity or national security requirements. Yet, the new law failed to explicitly ban the military court from investigating claims of torture, sets a statute of limitations for prosecuting torture, and restricted investigations into claims of torture to specific contexts, excluding during arrest and police use of force during protests.

Nevertheless, since the adoption of the new law, the National Human Rights Institute (NHRI), which is mandated to oversee the law's implementation, among other tasks, remains inactive. The government failed to allocate to it an independent budget and to start the process of nominating the five members needed to form the National Preventive Mechanism (NPM) against torture.

Amnesty International documented in the past five years cases in which complaints of torture leading to death in custody were raised against the Lebanese Armed Forces (LAF). The Military Court investigated these allegations but despite clear evidence of torture, failed to ensure accountability.

To implement Law No 65 and ensure that perpetrators are held accountable and the victims are granted redress and compensation, Amnesty International calls on the Lebanese authorities to:

- Revise and amend Law 65 to fully comply with the recommendations of the UN Committee against torture which includes banning the military court from looking into torture allegations and removing the statute of limitations
- Allocate the independent budget necessary to activate the NHRI,
- Ensure the prompt nomination of the members of the NPM against torture,
- Commit to combatting torture by ensuring prompt, independent, impartial and effective investigations into allegations of torture and bringing suspected perpetrators to justice in fair trials,
- Ensure victims have access to an effective remedy and reparation.

THE RIGHT TO KNOW

For over three decades, the relatives of persons who went missing or were forcibly disappeared during the country's armed conflict (1975-1990) have called on the state to clarify the fate and whereabouts of their loved ones. They finally saw their right to know acknowledged when parliament passed Law 19, which sets the legislative framework for the creation of a national commission that would be mandated

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to investigate the fate and whereabouts of the victims and report back to the relatives, and introduces for the first time in the Lebanese penal code the definition of enforced disappearance, in line with international law.

Amnesty International urges the authorities to:

- Fund and staff the national commission to investigate the fate of the disappeared without delay and in a transparent manner,
- Ratify the International Convention for the Protection of All Persons from Enforced Disappearance

FREEDOM OF EXPRESSION

Despite being a signatory to the ICCPR, which guarantees the right to freedom of expression, Lebanon is not currently meeting its obligations with regards to protecting and respecting the right to freedom of expression of people in Lebanon. Indeed, article 13 of the Lebanese Constitution guarantees freedom of expression “within the limits established by law;” articles 383 to 386 of the Lebanese Penal Code criminalize slander, defamation and libel of a public official, with sanctions running from six months to up to two years of prison term for insulting the President, flag or national emblem; and, article 157 of the Military Penal Code calls for three months to up to three years of prison sentences for defaming the Lebanese army or flag.

The UN Human Rights Committee states that it is “incompatible with paragraph one [of article 19 or the ICCPR] to criminalize the holding of an opinion” and the “harassment, intimidation or stigmatization of a person, including arrest, detention, trial or imprisonment for reasons of the opinions they may hold, constitutes a violation of article 19, paragraph 1”; and that “the mere fact that forms of expression are considered to be insulting to a public figure is not sufficient to justify the imposition of penalties” and “state parties should not prohibit criticism of institutions, such as the army or the administration.”

These legislative gaps have facilitated ongoing violations of people’s right to freedom of expression, with various security institutions summoning, detaining and interrogating dozens of human rights defenders, peaceful political activists and other individuals on the basis of social media posts criticizing political, religious or economic authorities.

In order to protect and respect people’s right to freedom of expression, Amnesty International calls on the Lebanese authorities to:

- Protect the right to freedom of expression by ensuring individuals, including human rights defenders and other activists, are not detained over any form of peaceful expression,
- Abolish articles 383, 384, 385, 386 of the Penal Code and Article 157 of the Military Penal Code which criminalize freedom of expression
- Ban the use of illegal pledges used to blackmail individuals, including human rights defenders, activists and commentators

DEATH PENALTY

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Courts continued to hand down [impose] death sentences, however, no executions took place. In line with the goal of abolition set under international law and the worldwide trend of abolishing the death penalty, the Lebanese authorities must:

- Abolish the death penalty in law
- Pending full abolition, immediately establish a moratorium on executions with a view to abolishing the death penalty, in line with seven UN General Assembly resolutions adopted since 2007, including most recently resolution 73/175 of 17 December 2018;

MILITARY COURT

The military court has a broad jurisdiction to try civilians. It is a separate judicial system under Ministry of Defense tutelage, handling cases involving espionage, treason, compulsory military service, unlawful contact with “the enemy” [Israel], weapons possession; crimes that harm the interest of military or security forces, or the General Security; as well as any conflict between civilians and military or security personnel or their civilian employees.

This year, the military court continued to handle cases involving allegations of torture and freedom of expression, blocking their access to a fair due process. Amnesty International calls on the Lebanese authorities to:

- Ensure that the jurisdiction of the military court is limited to trying military personnel for breaches of military discipline only, and not used to try civilians or to prosecute ordinary criminal offences or human rights violations.