



# Winning CCBE Amicus Curiae Brief

CONTEST AWARD 2022-2023

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The Contest Award Ceremony was held on **30 June 2023**  
during the **CCBE Plenary Session** in Chania, Greece

by the **President of the CCBE**, Panagiotis Perakis

and the **Jury of the CCBE Amicus Curiae Contest**

Diego García-Sayán, Former UN Special Rapporteur on the Independence of Judges and Lawyers,  
Stefan von Raumer, Chair of the Human Rights Committee, Jacques Bouyssou, Member of the CCBE  
Human Rights Committee, Natalia Klima-Piotrowska, Member of the CCBE Human Rights Committee,  
Patrick Henry, Member of the CCBE Human Rights Committee, Joseph O'Sullivan, Member of the CCBE  
Human Rights Committee

## **CONCLUDING REMARKS OF THE SPECIALIST**

*(Amicus Curiae )*

on the issue of infringements of the independence of lawyers, the non-assimilation of lawyers with their clients or their cause, professional secrecy, the principle of free exercise of the profession of lawyer, without restriction, interference, intimidation or harassment, and respect for fundamental rights and freedoms in relation to Mohammad Ahmad Samir Sabloun (hereinafter "Mohammad Sabloun").

### **SUMMARY**

Taking note of the letter of the President of the Council of European Bars and Law Societies (hereinafter "CCBE") addressed to the Chair of the Lebanese Republic on 10 November 2021, and of the support of many NGOs to Mohammed Sabloun, the Tripoli Human Rights Group has the honour to submit to the CCBE its legal conclusions concerning the infringements of the independence of lawyers, the non-assimilation of the right to freedom of expression, the right to a fair trial and the right to a fair trial. The Tripoli Human Rights Group is pleased to submit to the CCBE its legal conclusions concerning the infringements of the independence of lawyers, the non-assimilation of lawyers with their clients or their cause, the professional secrecy, the principle of free exercise of the profession of lawyer, without restriction, interference, intimidation or harassment, and the respect of fundamental rights and freedoms.

Below are the facts of which the Human Rights Group is aware, and a summary of the related findings.

Facts :

**I. The Lebanese military prosecution's request to lift Mohammad Sabloun's immunity in response to a complaint from detainees about his ill-treatment.**

**II. The continued detention of Syrian refugees for the sole purpose of obtaining information about Mohammad Sabloun .**

**III. The ban on communication with international NGOs in response to the documentation of human rights violations in Lebanon by Mohammed Sabloun.**



## Summary of findings :

### I.

The request for the lifting of Mohammad Sablough's immunity by the Lebanese military prosecutor's office, in reaction to a complaint from detainees about his ill-treatment, constitutes a violation of the principle of the independence of the lawyer and is the mark of an attempt to intimidate the lawyer.

### II.

The continued detention of the six Syrian refugees, in order to obtain information about Mohammed Sablough, highlights the assimilation by the Lebanese General Security of persons convicted of terrorism-related offences with their lawyers.

Research into the circumstances of the contact with Mohammed Sablough and his remuneration reveals the authorities' infringement of the free choice of lawyer and of professional secrecy.

This is particularly important as it has a direct impact on Syrian refugees, who are at risk of being deported to their country of origin and subjected to torture, ill-treatment or irreparable harm.

### III.

The prohibition of Mohammad Sablough from communicating with international NGOs, due to his documentation of human rights violations in Lebanon, constitutes a violation of his fundamental rights and freedoms, in particular of his freedom of expression and opinion.

The threat of prosecution for high treason is more widely indicative of the systemic nature of the persecution of human rights defenders in Lebanon, from which Mohammad Sablough does not escape.

<b>Preamble</b>
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1. The Tripoli Human Rights Group is a non-profit organisation, established in 1986.
2. The association collects evidence and documents human rights violations in Lebanon.
3. Its Legal Aid Centre for Victims of Ill-treatment aims to provide legal assistance to individuals who have been subjected to torture, or cruel, inhuman or degrading treatment or punishment.

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4. Born in 1979 in Lebanon, Mohammad Ahmad Samir Sabloun is a lawyer.
5. Registered since 2007 with the Tripoli <sup>1</sup> Bar Association, the lawyer is also Director of its Centre for Prisoners' Rights.
6. In the exercise of his functions, Mohammad Sabloun assists and defends victims of torture, inhuman or degrading treatment or punishment, arbitrary detention and violations of their fundamental rights and freedoms, both at the national and international levels.
7. It intervenes in particular with Syrian refugees detained on Lebanese territory and threatened with expulsion.
8. Mohammad Sabloun also documents human rights violations in Lebanon and works closely with international NGOs in the framework of the United Nations Special Procedures.

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<sup>1</sup> Lebanon has only two bars, the one in Tripoli - regrouping lawyers from North Lebanon - and the one in Beirut.

**I. The request for the lifting of Mohammad Sablough's immunity by the Lebanese military prosecutor's office, in reaction to a complaint by detainees of ill-treatment**

9. In August 2021, inmates of the '*Ramlet al-Baida*' military prison protested against the removal of their food and the prohibition of their relatives from providing them with food - the country was experiencing an unprecedented economic crisis and an increase in the price of basic necessities.

In response, the prison staff beat them and then denied them contact with their relatives and a medical examination for a month and a half, despite the request for the appointment of a forensic doctor made by lawyer Mohammad Sablough to the Cassation Court Prosecutor's Office.

10. On 15 August 2021, Mohammad Sabouh filed a complaint of ill-treatment on behalf of two detainees.
11. On 23 September 2021, the Government Commissioner at the Military Court heard the said detainees, without them being able to talk to their lawyer beforehand, or to be assisted during their hearing.

As evidence of the abuse had been erased by time, he made one of them sign a false confession that Mohammad Sablough had fabricated the allegations in support of his complaint, in exchange for his release.

12. The military prosecutor's office then sent a letter to the Tripoli Bar Association, seeking to obtain a waiver of Mohammad Sablough's immunity and to prosecute him on the basis of Article 403 of the Lebanese Penal Code, which sanctions false accusations.
13. On 27 October 2021, after studying the file, the Tripoli Bar Association replied in the negative to this request.

**TORTURE OF PRISONERS IN LEBANON**

Although it ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on 5 October <sup>2000</sup><sup>2</sup>, until the adoption of Law No. 65/17 punishing

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<sup>2</sup> UNGA, Res.39/46, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or

Punishment, 10 December 1984.

In accordance with the provisions of the Convention on the Elimination of All Forms of Discrimination against Women, which was adopted on 19 September <sup>20173</sup> , Lebanon had not transposed the Convention into domestic <sup>law4</sup>. (*Annex 1: Law n°65/17 repressing torture and other cruel, inhuman or degrading treatment or punishment of 19/09/2017*)

The conditions of detention in Ibanian prisons and the systemic nature of torture practices, including since Law No. 65, have been documented by the international community.<sup>5</sup>

According to Sébastien Touzé, co-rapporteur of the United Nations Committee against Torture (hereafter

"(CTC) for the review of Lebanon's report in April 2017, over 60% of those arrested by law enforcement or other state authorities between 2009 and 2014 reportedly claimed to have been victims of torture<sup>6</sup> .

### THE RIGHT TO LEGAL COUNSEL

14. The right to legal assistance is the essence of the right to be defended and the principle of equality of arms, which are the foundations of the right to a fair trial.
15. The International Covenant on Civil and Political Rights <sup>7</sup> (hereinafter "ICCPR"), ratified by Lebanon on 3 November 1972, requires States Parties to respect and ensure the human rights it addresses.

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<sup>3</sup> Law No. 65/17 on the Punishment of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment was adopted by Parliament on 19 September 2017 and entered into force on 26 October 2017.

<sup>4</sup> HUMAN RIGHTS WATCH, *Lebanon: New Torture Law Positive, But Incomplete* [online] , published 13 November 2017, available at: <https://www.hrw.org/news/2017/11/13/lebanon-new-torture-law-positive-incomplete>

<sup>5</sup> AMNESTY INTERNATIONAL , *Lebanon. One year after its adoption, the law on the repression of torture is still not applied*[online] , published on 25 October 2018 , available

<https://www.amnesty.org/fr/latest/press-release/2018/10/lebanon-failure-to-implement-anti-torture-law-one-year-on/> ; ALKARAMA , *Lebanon: major human rights violations to be addressed in the next Universal Periodic Review*[online] , published on 17 March 2015 , available à <https://www.alkarama.org/fr/articles/liban-significant-human-rights-violations-addressed-to-the-next-period-review>.

<sup>6</sup> OHCHR, *Committee against Torture considers Lebanon's report*, 21 April 2017 [online], available at: <https://www.ohchr.org/fr/press-releases/2017/04/committee-against-torture-considers-initial-report-lebanon>



<sup>7</sup> UNGA, Res. 2200 A (XXI), International Covenant on Civil and Political Rights, 16 December 1966, A/RES/2200A (XXI).

As a binding corollary to Article 10 of the Universal Declaration of Human Rights,<sup>8</sup> Article 14(3) of the ICCPR guarantees to all persons prosecuted the right to a fair trial - characterised in particular by the guarantee of the rights :

*"(b) To have adequate time and facilities for the preparation of his defence and to communicate with counsel of his choice;*

*[...]*

*(d) To be tried in his or her presence and to defend himself or herself in person or through legal assistance of his or her own choosing; to be informed, if he or she does not have legal assistance, of his or her right to legal assistance and, in any case where the interests of justice so require, to have legal assistance assigned to him or her without payment by him or her in any such case if he or she does not have sufficient means to pay for it;*

*[...]*

*(g) Not to be compelled to testify against herself or to confess guilt.*

16. This requirement is all the more essential when a person is detained, and therefore de facto in a vulnerable situation.

For example, the Standard Minimum Rules for the Treatment of Prisoners (known as the "Nelson Mandela Rules"), adopted by the United Nations General Assembly (hereinafter "The UN General Assembly (UNGA) on 17 December<sup>20159</sup> requires that detainees be "*allowed to defend themselves, either personally or through legal assistance where the interests of justice so require*"<sup>10</sup> and that they can :

*"...] be visited by, confer with and consult with a legal adviser of their choice or a legal aid provider on any point of law, without delay, without interception or censorship and in full confidence, and have the time and facilities*

*necessary for this purpose, in accordance with the applicable national law*"<sup>11</sup> .

Secondly, the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, adopted by the UNGA on 9 December<sup>198812</sup> , states that "*a detained person shall have the right to defend himself or herself or to be assisted by counsel in accordance with the law*"<sup>13</sup> .

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<sup>8</sup> UNGA, Res. 217 (III) A, Universal Declaration of Human Rights, 10 December 1948, A/RES/217 (III).

<sup>9</sup> UNGA, Res. 70/175, UN Standard Minimum Rules for the Treatment of Prisoners, 17 December 2015, A/RES/70/175.

<sup>10</sup> *Ibidem*, Rule 41.

<sup>11</sup> *Ibidem*, Rule 61

<sup>12</sup> UNGA, Res. 43/173, 9 December 1988.

<sup>13</sup> *Ibid*, Principle 11.

Finally, the Safeguards guaranteeing protection of the rights of those facing the death penalty, adopted by the United Nations Economic and Social Council (hereinafter "ECOSOC") on 25 May <sup>1984</sup><sup>14</sup>, formulates the *"right of anyone suspected or accused of a crime for which the death penalty may be imposed to benefit from appropriate judicial assistance at all stages of the proceedings"*<sup>15</sup>.

17. Moreover, the Covenant endorses in its article 8, the principles of individual freedom, prohibition of arbitrary arrests and legality of offences and penalties - in the same way as the Lebanese Constitution which provides that *"individual freedom is guaranteed and protected. No one may be arrested or detained except in accordance with the provisions of the law. No offence and no punishment can be established except by law"*<sup>16</sup>.

18. The presence and assistance of a lawyer in cases of deprivation of liberty is precisely a bulwark against arbitrariness.

This is the spirit of Article 47 of the Lebanese Code of Criminal Procedure, which in its version amended by Law No. 65, allows detainees to meet with a lawyer - designated by a statement in the minutes - during the preliminary investigation, as well as for the lawyer to be present during their hearings by the investigating services.

19. In addition to the lawyer's presence at hearings, the effectiveness of legal assistance requires that the lawyer be given the material and temporal opportunity to consult the file.

In this sense, paragraph 21 of the Basic Principles on the Role of Lawyers provides:

*"It is the responsibility of the competent authorities to ensure that lawyers have access to relevant information, records and documents in their possession or control in sufficient time to enable them to provide effective legal assistance to their clients. Such access should be provided at the appropriate time and without delay."*

20. Without access to the case file, access to the client and attendance at hearings, access to the law is superfluous and the right to a fair trial futile.

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<sup>14</sup> ECOSOC, Res. 1984/50, 25 May 1984.

<sup>15</sup> *Ibidem*, §5.

<sup>16</sup> Article 8 of the Lebanese Constitution.

## THE PRINCIPLE OF THE INDEPENDENCE OF LAWYERS

21. The free and honest exercise of the profession in complete independence is an essential requirement for the rule of law and the protection of human rights and fundamental freedoms.

The Basic Principles on the Role of Lawyers, adopted at the United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held in Havana, Cuba, from 27 August to 7 September 1990, state:

*"...] the adequate protection of fundamental freedoms and human rights, whether economic, social and cultural or civil and political, to be enjoyed by everyone, requires that everyone has effective access to legal services provided by lawyers independent "17.*

22. On a more regional scale - not directly impacting Lebanon, but evocative in this respect - the Court of Justice of the European Union recently reaffirmed in a judgment of 8 December 2022 :

*"This fundamental task includes, on the one hand, the requirement, the importance of which is recognised in all the Member States, that every person subject to legal proceedings must have the possibility of addressing himself or herself, in all circumstances, to the courts. freedom to his lawyer, whose very profession includes, in essence, the task of giving independent legal advice to all those who need it, and, on the other hand, the correlative duty of loyalty of the lawyer to his client "18.*

23. The principle of independence has as its corollary the non-assimilation of the lawyer with his client or his case (see III. *"The principle of non-assimilation of the lawyer with his clients or their case"*).

## THE PRINCIPLE OF FREE EXERCISE OF THE PROFESSION OF LAWYER, WITHOUT RESTRICTION, INTERFERENCE, INTIMIDATION OR HARASSMENT

24. As guardians of fair trials and human rights, lawyers must be able to exercise their profession freely, without restriction, interference, intimidation or harassment.

In this sense, the Basic Principles on the Role of Lawyers state

<sup>17</sup> Basic Principles on the Role of Lawyers, 1990, A/CONF.144/28/Rev.1, pp. 124 ff, Preamble.

<sup>18</sup> CJEU, *AM & S Europe v. Commission*, 18 May 1982, Case No. 155/79.155/79, §18.

*"Public authorities shall ensure that lawyers (a) are able to carry out all their professional duties without hindrance, intimidation, harassment or undue interference; (b) (c) are not subject to, or threatened with, prosecution or economic or other sanctions for any action taken in accordance with their professional obligations and standards and their deontology"*<sup>19</sup>.

The UN Principles and Guidelines on Access to Legal Assistance in the Criminal Justice System, for their part, prescribe

*"States must ensure that legal aid providers can carry out their work effectively, freely and independently. In particular, they must ensure that legal aid providers are able to carry out all their professional duties without hindrance, intimidation, harassment or undue interference; are able to travel, consult and meet with their clients freely and confidentially both at home and abroad, and have free access to prosecution and other relevant records; and are not subject to, or threatened with, prosecution or economic, administrative or other sanctions for any actions taken in accordance with their recognized professional obligations and standards and their deontology"*<sup>20</sup>.

25. The "immunity of the robe" - guaranteeing in principle to lawyers that a faithful and good faith account of court proceedings and speeches made or writings produced before the courts are not subject to any action for defamation, insult or contempt - is in this respect protective of the lawyer's freedom.

Indeed, in accordance with the Basic Principles on the Role of Lawyers :

*"Lawyers enjoy civil and criminal immunity for any relevant statements made in good faith in written or oral pleadings or in their appearance before a court or other legal or administrative authority.*

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<sup>19</sup> Basic Principles on the Role of Lawyers, 1990, A/CONF.144/28/Rev.1, pp. 124 ff, §16.

<sup>20</sup> UNGA, Res. 67/87, 20 December 2012, UN Principles and Guidelines on Access to Legal Assistance in the Criminal Justice System, A/RES/67/187, Principle 12.

<sup>21</sup> Paragraph 20 of the Basic Principles on the Role of Lawyers states: *"Lawyers are entitled to immunity from civil and criminal liability for relevant statements made in good faith in written or oral pleadings or in an appearance before a court or other legal or administrative authority.*

26. At the national level, civil and criminal immunity is guaranteed by Law No. 8/70 of 11 March 1970 regulating the profession of lawyer in Lebanon, which establishes a regime of guarantees in the exercise of their functions by lawyers.<sup>22</sup> The law also provides for the right to be heard by the courts.

Unless they exceed the limits of the defence, a lawyer cannot therefore be questioned or prosecuted for defamation or slander because of his or her written or oral pleadings.

27. The assessment of the comments made and the possibility of prosecution is the responsibility of the Council of the Order, which will decide within one month of being notified of the occurrence of the act by written letter.
28. The preventive arrest of a lawyer because of what he says in the exercise of his profession is also prohibited, and no judge can hear a case for this.

#### **- Conclusions -**

29. **By preventing the appointment of an independent forensic doctor within 48 hours, the access of Me Sablough to the file of his clients, as well as his presence and assistance during the hearings of the detainees by the Government Commissioner to the**  
**The Lebanese authorities have not only violated the provisions of their Code of Criminal Procedure, but also the right to legal assistance, as well as the principle of independence of the lawyer.**

**It should be noted that forcing detainees to misrepresent the truth and sign false confessions against Mohammad Sablough is a clear violation of Article 14(3)(g) of the ICCPR, which guarantees the right "*not to be compelled to testify against oneself or to confess guilt.*"**

30. **Moreover, since it can only have the aim of discrediting the work of the lawyer, the request for the lifting of the immunity of the lawyer at the Tripoli Bar constitutes a interference by the state authorities in the performance of Mohammad Sablough's professional duties.**

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<sup>22</sup> MENA RIGHTS GROUP, *Study on the Protection of Lawyers from Undue Interference in Lebanon* [online], published on 14 December 2021, available at: [https://menarights-org.translate.google/en/articles/study-protection-lawyers-against-undue-interference-lebanon?\\_x\\_tr\\_sl=en&\\_x\\_tr\\_tl=en&\\_x\\_tr\\_hl=en&\\_x\\_tr\\_pt=tcib](https://menarights-org.translate.google/en/articles/study-protection-lawyers-against-undue-interference-lebanon?_x_tr_sl=en&_x_tr_tl=en&_x_tr_hl=en&_x_tr_pt=tcib)



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31. **The threat of prosecution on the basis of Article 403 of the Criminal Code is an attempt to intimidate, in violation of the principle of free exercise of the profession of lawyer, without restriction, interference, intimidation or harassment.**

## II. The continued detention of Syrian refugees, solely for the purpose of obtaining information on Mohammad Sablough

32. In September 2021, while Mohammed Sablough was assisting six Syrian refugees who had served their sentences and were facing deportation to their country of origin, the Sûreté Générale decided to arbitrarily detain them in order to obtain information about their lawyer.

The six refugees were then asked to explain how they had come into contact with their lawyer and to inform the Sûreté générale whether or not they had been paid.

### THE TREATMENT OF SYRIAN REFUGEES IN LEBANON

33. Lebanon has a population of 5,331,<sup>20323</sup> and nearly 1.5 million Syrian refugees<sup>24</sup> - who fled their country en masse from 2014.
34. Taking the measure of the terrorist threat, the Lebanese authorities violently repress any activists supporting the Syrian revolutionaries, through arbitrary arrests and detentions, as well as convictions on terrorism-related charges<sup>25</sup>.

Upon their release, the Lebanese authorities then exerted strong pressure for the Syrian nationals to leave Lebanese territory<sup>26</sup>.

35. This campaign of intimidation and retaliation against activism and critical discourse is facilitated by the broad definition of offences in the Law of 11 January 1958 reinforcing the penalties for sedition, civil war and sectarian strife (*Annex 2: Law of 11 January 1958 reinforcing the penalties for sedition, civil war and sectarian strife*).

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<sup>23</sup> Data for 2023, available at: <https://www.cia.gov/the-world-factbook/countries/lebanon/summaries/#people-and-society>

<sup>24</sup> European Commission, European Civil Protection and Humanitarian Aid Operations, Lebanon page [online], available at: [https://civil-protection-humanitarian-aid.ec.europa.eu/where/middle-east/lebanon\\_en](https://civil-protection-humanitarian-aid.ec.europa.eu/where/middle-east/lebanon_en)

<sup>25</sup> AMNESTY INTERNATIONAL, *Lebanon. Syrian refugees arbitrarily detained on terrorism-related charges and tortured* [online], published on 23 March 2021, available at: <https://www.amnesty.org/fr/latest/press-release/2021/03/lebanon-torture-of-syrian-refugees-arbitrarily-detained-on-counter-terror-charges/>

<sup>26</sup> ARABIA-21, *Security Man and Godfather of the Colonies. What is the next step in the life of Major General Abbas Ibrahim ?*, published on 13 March 2023, available at the address: <https://arabi21-com.translate.google.com/story/1499523>

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*of 11 January 1958 reinforcing the penalties for sedition, civil war and religious strife).*

According to the Chair of the Court of Cassation and the Higher Council of the Judiciary in Lebanon, Jean Fahd, the number of court cases in terrorism cases has increased from 27 in 2012 to 430 in 2015.<sup>27</sup> The number of cases in terrorism cases has also increased.

By the end of 2020, approximately 350 Syrians were being held in the civilian prison in Roumieh for terrorism offences,<sup>28</sup> where torture has been widely documented.<sup>29</sup> The Syrian authorities have also been forced to take action to prevent the use of torture.

36. The law of 11 January 1958 gives the Military Courts jurisdiction to judge civilians prosecuted for terrorist offences in Lebanon <sup>30</sup>.

However, these courts are not composed of independent and impartial professional judges, but mostly of military officers, not necessarily legally trained and subordinate to the Minister of Defence <sup>31</sup> - so that, according to the Special Rapporteur on the independence of judges and lawyers, Leandro Despouy, the customary international right to file a *habeas corpus* petition has been lost:

*"...] emptied of its content in situations where the figure of the judge is replaced by that of an authority that does not have sufficient independence and impartiality to examine the legality of a detention and the respect of the fundamental rights of the detained person "<sup>32</sup>.*

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<sup>27</sup> UN INFO, *Lebanese Judge Jean Fahd: Preparation and incitement to terrorism and carrying out actions that create chaos or fuel sectarian conflicts are also considered terrorist acts* [online], published on 11 March 2016, available at : [https://news-un.org.translate.google/ar/audio/2016/03/347352?\\_x\\_tr\\_sl=auto&\\_x\\_tr\\_tl=fr&\\_x\\_tr\\_hl=fr&\\_x\\_tr\\_pto=wapp](https://news-un.org.translate.google/ar/audio/2016/03/347352?_x_tr_sl=auto&_x_tr_tl=fr&_x_tr_hl=fr&_x_tr_pto=wapp)

<sup>28</sup> AMNESTY INTERNATIONAL, *Lebanon: 'I Wished I Would Die'- Syrian refugees arbitrarily detained on terrorism - related charges and tortured in Lebanon*, 2021, p.15.

<sup>29</sup> ALKARAMA, *Lebanon: Alkarama joins civil society to call for a resolution of the situation in Roumieh and other detention centres* [online], published on 15 January 2023, available at: <https://www.alkarama.org/en/articles/alkarama-joins-libanese-civil-society-to-call-for-resolution-of-the-situation> ; FRANCE INFO, *Liban: des fuites de vidéos de torture à la prison de Roumieh font-polemique* [online], published on 24 June 2015, available at : [https://www.francetvinfo.fr/monde/proche-orient/liban/liban-des-fuites-de-videos-de-torture-a-la-prison-de-roumieh-font-polemique\\_3067261.html](https://www.francetvinfo.fr/monde/proche-orient/liban/liban-des-fuites-de-videos-de-torture-a-la-prison-de-roumieh-font-polemique_3067261.html)

<sup>30</sup> Law reinforcing the penalties for sedition, civil war and sectarian strife, adopted on 11 January 1958, Art. 8.

<sup>31</sup> HUMAN RIGHTS WATCH, *Lebanon: civilians tried by military courts* [online], published 26 January 2017, available at: <https://www.hrw.org/news/2017/01/26/lebanon-civilians-tried-military-courts> ;

<sup>32</sup> UNGA, Report of the Special Rapporteur on the independence of judges and lawyers, 12 August 2008, [A/63/271](#), §30

Highlighting the infringement of the right to a fair trial before an independent and impartial tribunal, the International Commission of Jurists' report of May 2018<sup>33</sup> states:

*"The ICJ considers that the use of such lengthy and arbitrary preventive detention in Lebanon is facilitated by the inadequacy of the legal framework concerning preventive detention, including in proceedings before military courts.*

*The procedure followed by military investigating judges in ordering pre-trial detention is incompatible with international standards on the right to liberty and protection against arbitrary detention in three respects: First, it allows for the systematic detention of defendants in pre-trial detention rather than in exceptional circumstances, in particular because the grounds on which pre-trial detention can be ordered are far too broad; second, it does not allow the accused to properly challenge his or her detention through habeas corpus or similar procedures; and third, the remedies that can be brought to challenge release orders are not*

*not examined by an independent and impartial judicial authority"*<sup>34</sup>.

A PROHIBITION ON THE EXPULSION OF ANY PERSON TO A STATE WHERE  
THERE ARE SUBSTANTIAL GROUNDS FOR BELIEVING THAT HE OR SHE  
WOULD BE IN DANGER OF BEING SUBJECTED TO TORTURE, ILL-TREATMENT  
OR IRREPARABLE HARM

37. Article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment prohibits the expulsion, return or extradition of any person to another State where there are substantial grounds for believing that he or she would be in danger of being subjected to torture, ill-treatment or irreparable harm.

In these circumstances, all forms of return or transfer of persons, regardless of their status or protection, are prohibited.

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<sup>33</sup> ICJ, *The Jurisdiction and Independence of the Military Courts System in Lebanon in Light of International Standards A Briefing Paper* [online], May 2018, available at: <https://www.icj.org/wp-content/uploads/2018/05/Lebanon-Memo-re-army-courts-Advocacy-Analysis-Brief-2018-ENG.pdf>

<sup>34</sup> Paragraph: *"The ICJ considers that the recourse to such lengthy and arbitrary pre-trial detention in Lebanon is facilitated by the inadequacy of the legal framework regarding pre-trial detention, including in proceedings before the military courts. The procedure followed by the military investigative judges to order pre-trial detention is inconsistent with international standards related to the right to liberty and protection from arbitrary detention in three respects: First, it allows defendants to be placed in pre-trial detention as a matter of practice, rather than only in exceptional circumstances, particularly because the grounds on which pre-trial detention can be ordered are much too broad; secondly, it does not allow the defendant to duly challenge his or her detention through habeas corpus or similar processes; and thirdly, the appeals that may be*

*submitted*

*to challenge orders of release are not heard by an independent and impartial judicial authority.*

38. In the spirit of the Convention, the CAT reiterates its practice of considering that serious grounds exist whenever the risk of torture is "*personal, present, foreseeable and real*"<sup>35</sup> and that this risk must be assessed on "*grounds that go beyond mere suspicion*".<sup>36</sup>

States must therefore examine the situation of each individual on an individual basis, as collective expulsions are prohibited.

39. In Lebanon, the deportation of Syrian refugees - whether prosecuted or not - to Syria, even though they risk arrest, torture and other ill-treatment, is a reality. (*Annex 3: Amnesty International press release on Lebanon's deportation of Syrian refugees to Syria, dated 18/01/2023*)

#### THE PRINCIPLE OF NOT ASSIMILATING THE LAWYER WITH HIS CLIENTS OR THEIR CAUSE

40. The principle of independence of lawyers relates not only to state authorities, but also to third parties and to the lawyer's clients, when it takes the form of the principle of non-assimilation of the lawyer with his clients or their case.

The basic principles relating to the role of the bar prescribe that "*where the safety of lawyers is threatened in the exercise of their functions, they must be adequately protected by the authorities*"<sup>38</sup> and that "*lawyers must not be assimilated to their clients or their clients' cause as a result of the exercise of their functions*".<sup>39</sup> The basic principles relating to the role of the bar prescribe that "*where the safety of lawyers is threatened in the exercise of their functions, they must be adequately protected by the authorities*".<sup>40</sup> The basic principles relating to the role of the bar prescribe that "*lawyers must not be assimilated to their clients or their clients' cause as a result of the exercise of their functions*".

41. This distinction between the lawyer and his client preserves the right to defence of defendants and accused persons on the one hand, and constitutes a cardinal guarantee for the lawyer, who sees his person protected when he practices and defends the interests of others.

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<sup>35</sup> CAT, Communication No. 258/2004, *Dadar v. Canada*, decision adopted on 23 November 2005, §8.4; CAT, Communication No. 226/2003, *T.A. v. Sweden*, decision adopted on 6 May 2005; CAT, Communication No. 356/2008,

*N. S. v. Switzerland*, decision adopted on 6 May 2010.

<sup>36</sup> CAT, Communication No. 203/2002, *A.R. v. the Netherlands*, decision adopted on 14 November 2003, §7.3; CAT, Communication No. 658/2015, *Meron Fekade v. Switzerland*, decision adopted on 15 November



2016, §7.4.

<sup>37</sup> CAT, Communication No. 321/2007, *Kwami Mopongo et al. v. Morocco*, decision adopted on 7 November 2014, §§ 6.2-6.3 and §§ 11.3-11.4; HRC, General Comment No. 15, "The situation of aliens under the Covenant", 11 April 1986, §10.

<sup>38</sup> Basic Principles on the Role of Lawyers, 1990, A/CONF.144/28/Rev.1, pp. 124 ff, §17.

<sup>39</sup> *Ibidem*, §18.

## THE INVIOABILITY OF PROFESSIONAL SECRECY

42. Professional secrecy is protected in Lebanese law by Article 92 of Law No. 8/70 of 11 March 1970, which provides that *"no person may disclose a secret entrusted to him or of which he has become aware by virtue of his profession, even after the end of his term of office"*.

Paragraph 22 of the Basic Principles on the Role of Lawyers states that: *"Governments should ensure that all communications and consultations between lawyers and their clients in the course of their professional relationship are confidential."*

43. Respect for communications between lawyer and client is a right inherent in the rule of law, in that it constitutes *"the basis of the relationship of trust between lawyer and client"*, but also *"an essential guarantee of the freedom of the individual and the proper functioning of justice"*<sup>40</sup>.

### **- Conclusions -**

44. **The continued detention of the six Syrian refugees, in order to obtain information on Mohammed Sablounh , highlights the assimilation by the Lebanese General Security of persons convicted of terrorism-related offences with their lawyer. In the context of the proven persecution of Syrian refugees in Lebanon, it is clear that Mohammed Sablounh is considered by the Lebanese authorities as an activist, and therefore as "dangerous" as his clients, and not as a lawyer exercising, in all independence, his function of assistance and defence.**
45. **The questioning of the detainees about their contact with Mohammed Sablounh and his remuneration is convincing of an attempt to infringe the free choice of lawyer, as guaranteed by Article 14. 3) b) of the ICCPR, and the professional secrecy.**
46. **In the current context, the assistance of a lawyer, freely chosen and effectively able to exercise his or her functions in full independence, constitutes for Syrian refugees in Lebanon a crucial bulwark against refoulement and expulsion to their country of origin - in which there is evidence that they are at risk of torture, ill-treatment or irreparable harm.**

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<sup>40</sup> Opinion of Advocate General Léger in the *Wouters* case, C-309/99, 10 July 2001, EU:C:2001:390, §182 cited by the ECtHR in its judgment in *André and Others v. France*, 24 July 2008, Application No. 18603/03, §§ 16 and 41.

## I II . The ban on communication with international NGOs due to the documentation of human rights violations in Lebanon by Mohammed Sablough

47. During 2020-2021, Mohammad Sablough provided *Amnesty International* with information and testimonies of various human rights violations committed by the Lebanese regime against Syrian refugees since 2014, in particular arbitrary detentions on terrorism-related grounds and ill-treatment, such as sleep deprivation, insufficient food, humiliation and stressful situations

In March 2021, the UN published its report on the conditions of arbitrary detention and torture of Syrian refugees on terrorism-related charges in Lebanon, entitled "*Lebanon: 'I Wished I Would Die'- Syrian refugees arbitrarily detained on terrorism-related charges and tortured in Lebanon*"<sup>41</sup>.

In this report, Mohammad Sablough is quoted several times, notably to testify about cases of torture and the lack of investigation by the courts, in case of recourse by detainees - thus fuelling a general impunity of prison officers<sup>42</sup>.

48. On 14 April 2021, Mohammad Sablough was summoned as rapporteur of the Prisons Committee of the Tripoli Bar Association, to appear before the interim Minister of Justice.

The Director of the Lebanese General Security, Mr. Abbas Ibrahim, who was present during the interview, informed Mohammad Sablough of the prohibition to communicate with international NGOs - qualified as "Zionist entities" - under penalty of being prosecuted for high treason.

Mohammad Sablough was also criticised for seeking to stop funding to Lebanon - the British ambassador having announced immediately after the release of the *Amnesty International* report that he would stop funding if human rights violations in Lebanon continued.

49. In September 2021, two Syrians convicted by the Lebanese judiciary for terrorist offences allegedly committed in Syria were deported on the orders of the

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<sup>41</sup> AMNESTY INTERNATIONAL , *Lebanon: 'I Wished I Would Die' - Syrian refugees arbitrarily detained on terrorism - related charges and tortured in Lebanon* [online] , published 23 March 2021, available at: <https://www.amnesty.org/en/documents/mde18/3671/2021/en/>

<sup>42</sup> *Ibidem*, p.33.

The Lebanese General Security, without any prior judicial authorization and without the interested parties having been able to assert their rights and contest this decision.

50. Furthermore, on 2 October 2021, the newspaper Al Modon published an article in which Mohammad Sabloun and one of his clients commented on the way the Lebanese General Security treats Syrian refugees.
51. On 4 October 2021, the Lebanese General Security declared that Mohammad Sabloun had In the case of the latter, there is "*no right to make judgements or to distribute information that is unsourced and inaccurate*"<sup>43</sup>.
52. On the same day, when he was supposed to assist a client in a torture case before the Military Court, Mohammad Sabloun decided to be represented by a colleague, fearing arrest for defamation of the judiciary - a flagrant offence not protected by the immunity of lawyers in Lebanon.
53. In December 2021, in response to a letter sent by Amnesty International to the Minister of the Interior, Bassam Mawlawi, on the situation of Mohammad Sabloun, the Director of General Security in Lebanon replied that he considered the Director of the Centre for Prisoners' Rights of the Tripoli Bar Association to be "*an instigator of movement and revolution [who] offends certain countries*".<sup>44</sup>

## THE FUNDAMENTAL RIGHTS AND FREEDOMS OF HUMAN RIGHTS DEFENDERS

54. As with any other individual, human rights defenders are subjects of law, whose fundamental rights and freedoms must be <sup>protected</sup><sup>45</sup>.

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<sup>43</sup> MENA RIGHT GROUP, *Lebanese human rights lawyer Mohammad Sabloun facing increasing threats and intimidation* [online] published on 11 October 2021, available at: <https://www.menarights.org/en/case/mohammad-sabloun>. *No right to issue judgments or spread unlawfully acquired and inaccurate information.*

<sup>44</sup> ARABIA-21, *Security man and godfather of the colonies. What's next in the life of Major General Abbas Ibrahim?* [online] , published 13 March 2023, available at: [https://arabi21-com.translate-عباس-اللواء-حياة-في-/goog/story/1499523-إبراهيم-القادمة-المحطة-ما-التسويات-وعراب-المن-رجل?\\_x\\_tr\\_sl=auto&\\_x\\_tr\\_tl=en&\\_x\\_tr\\_hl=en&\\_x\\_tr\\_pto=wa pp#.ZA-PzSzWlgR.whatsapp](https://arabi21-com.translate-عباس-اللواء-حياة-في-/goog/story/1499523-إبراهيم-القادمة-المحطة-ما-التسويات-وعراب-المن-رجل?_x_tr_sl=auto&_x_tr_tl=en&_x_tr_hl=en&_x_tr_pto=wa pp#.ZA-PzSzWlgR.whatsapp)

<sup>45</sup> Article 2 of the ICCPR grants to "*all individuals within their territory and subject to their jurisdiction*" the rights it guarantees, "*without distinction of any kind, such as race, colour, sex, language, religion or political opinion.*

*language, religion, political or other opinion, national or social origin, property, birth or other status.*

55. The Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms, adopted by the UNGA on 8 March 1999, recalls the right of everyone *"to engage in peaceful activities against violations of human rights and fundamental freedoms"*.<sup>46</sup>

The text prohibits any *"violence, threats, retaliation, de facto or de jure discrimination, pressure or any other arbitrary action in relation to the legitimate exercise of the rights referred to in this Declaration."*

56. A lawyer whose struggle is the defence of human rights enjoys freedom of movement, association and assembly, expression and opinion - including through political speeches - commenting on their own affairs or on public affairs, controversies on the human rights situation, or journalistic activity<sup>48</sup>.

The Basic Principles on the Role of the Law Society detail :

*"In particular, they have the right to take part in public discussions on law, the administration of justice and the promotion and protection of human rights and to join or establish local, national or international organisations and to attend  
In the exercise of these rights, lawyers must conduct themselves in accordance with the law and recognised standards and ethics of the profession, and in a manner that is not professionally restricted by their lawful actions or membership of a lawful organisation. In exercising these rights, lawyers must conduct themselves in accordance with the law and recognised standards and deontology of the  
profession of lawyer"*<sup>49</sup>.

57. Freedom of expression is also guaranteed under Lebanese domestic law, with the Constitution stating in Article 13: *"Freedom of expression by word or pen, freedom of the press, freedom of assembly and freedom of association are guaranteed within the limits set by law."*

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<sup>46</sup> UNGA, Res. 53/144, Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, 8 March 1999, A/RES/53/144, Article 12.

<sup>47</sup> *Idem*.

<sup>48</sup> UN Human Rights Committee, General Comment No. 34, §11.

<sup>49</sup> Basic Principles on the Role of Lawyers, 1990, A/CONF.144/28/Rev.1, pp. 124 ff. , §23.

**- Conclusions -**

58. The ban on Mohammad from communicating with international NGOs, because of his documentation of torture practices and the shortcomings of the *In addition, the report of the Amnesty International* report and the newspaper *Al Modon*, constitute a violation of his freedom of expression and opinion.

Mohammad Sablounh was not only fully entitled to comment on the cases he had dealt with in the course of his duties, but more broadly to exercise his freedom of expression and opinion, like any other individual, in accordance with international human rights conventions and the Lebanese constitution.

59. These measures are more indicative of the systemic nature of the persecution of human rights defenders in Lebanon.

Threats of prosecution for high treason by the Director of General Security,  
This is an example of the extent to which human rights defenders in Lebanon are subject to restrictions on their freedom of movement, expression and association - with Lebanon using intimidation and repression to curb cooperation with NGOs and the United Nations on human rights issues.

Mohammad Sablounh is no exception, nor is lawyer Tarek Chindeb.

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<sup>50</sup> ALKARAMA , *Lebanon: The situation of lawyer Tarek Chindeb submitted to the Special Rapporteur on the independence of judges judges and of judges and lawyers* [ online] , published on 24 February 2022 , available à available at <https://www.alkarama.org/fr/articles/liban-the-situation-of-lavocat-tarek-chindeb-submitted-to-the-special->

[reporter- on](#)



Annex 1: Law No. 65/17 punishing torture and other cruel, inhuman or degrading treatment or punishment
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Lebanese University

Computer Law Centre

Punishment of torture and other cruel, inhuman or degrading treatment or punishment

Number of items: 6

Definition of the text: Law n° 65 of 20/10/2017

Official Journal Number: 50 | Date of Publication: 26/10/2017 | Page: 3775-3777

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Index of laws

Articles (1-6)

**Reasons for proposing the law against torture and other cruel, inhuman or degrading treatment or punishment**

The Universal Declaration of Human Rights is part of the constitutional block, as stipulated in paragraph (b) of the Preamble to the Constitution: "Lebanon...is committed to...the Universal Declaration of Human Rights. The State embodies these principles in all fields and areas without exception. Article 5 of this Declaration states

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Whereas Lebanon ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment without reservation in the year 2000; ("Agreement"). This Convention has become part of the directly applicable Lebanese law, its provisions prevailing over the laws and decrees below, in accordance with Article Two of the Code of Civil Procedure. The Convention also requires that legislative, administrative and other procedures and measures be taken to implement the provisions and requirements of the Convention in various fields in order to achieve the objective of preventing and punishing practices of torture, in particular as set forth in article 4 of the

Convention on the Undertaking that Lebanese law makes "torture" and "cruel, inhuman or degrading treatment or punishment" crimes to be punished by appropriate penalties which take into account their gravity.

Considering that Lebanon explicitly committed before the Human Rights Council in November 2010 during the Universal Periodic Review to enact legislation to incorporate the Convention against Torture and define the crime of torture in Lebanese law.

Considering that the legal provisions currently in force in Lebanon are insufficient or inappropriate to implement all the obligations arising from the conclusion of the Convention, particularly in the Penal Code, which does not include any integrated crime including torture as defined by the Convention, except for what is stipulated in the inadequate Article 401, and since Lebanon's commitment to these high standards in a serious and strict manner also means that there is no contradiction between the prohibition and criminalisation of torture and the insistence on protecting society and denouncing crimes, their perpetrators and those involved in them. Scientific and technical developments provide the judicial police and their assistants with the necessary and sufficient means to investigate and gather evidence about crimes in a legitimate and effective manner, without resorting to torture or infringing the rights of suspects or accused persons. Accordingly, we propose the attached law, which includes the most important of the following provisions.

1- In line with the requirements of Article 4 of the Convention, the proposed law introduces the two crimes of torture and cruel, inhuman or degrading treatment or punishment. It amends Article 401 of the Criminal Code to include a specific definition of torture, as literally stipulated in the first paragraph of Article 1 of the Convention against Torture, and the proposal provides for graduated criminal sanctions for this first offence. The proposal also adds a definition of the crime of "cruel, inhuman or degrading treatment or punishment", taking as a criterion for differentiating the two crimes the severity of the torture caused to the victim, leaving this determination to the jurisprudence of the courts.

2- The proposal for this second offence is an appropriate punishment for an offence. In accordance with the requirements of Article 2 of the "Convention", the Bill stipulates that no exceptional circumstances whatsoever may be invoked as a justification of torture, whether such circumstances be a state of war, a threat of war, internal political instability or any other public emergency; it also specifies that the orders of superior officers or a public authority may not be invoked as a justification of torture

3- In line with the requirements of customary international law, the proposed law did not retain that torture is not subject to the statute of limitations, but rather stipulates that the statute of limitations applies after the victim's release from prison, arrest or pre-trial detention, if it is not followed by imprisonment or detention.

4- In accordance with the requirements of Article 15 of the "Convention", the bill stipulates that all statements proven to have been made as a result of torture are void and may not be used as evidence in any proceedings, unless they are against a person accused of committing torture as evidence of such statements.

5- In line with the requirements of Article 13 of the Convention, the bill includes a range of provisions to ensure that complaints by anyone claiming to have been subjected to torture are effective and that the competent judicial authorities consider them "promptly and impartially". Among the most important of these measures are the following:

- The power to investigate and prosecute is entrusted to the ordinary judiciary, to the exclusion of all other special criminal courts;
- The prosecution of employees for the crime of torture is not subject to the condition of prior authorisation. The Public Prosecutor's Office and the investigating judges, who examine reports and complaints related to torture, must carry out all hearing and investigation procedures themselves, without delegating the judicial police or any other security apparatus to carry out anything other than technical tasks.

The proposed law is limited to the provisions necessary to implement Lebanon's obligations in the proper implementation of the Convention by criminalizing and punishing the crimes of torture, and therefore does not extend to other necessary provisions, which it is advisable to add to Lebanese legislation in order to prevent torture, including amending the code of criminal procedure to activate the role and presence of lawyers and doctors are in the investigation phase with the judicial police and their assistants. It is useful that these necessary amendments to the law are proposed in a separate law. The proposed law does not include any of the provisions that are considered to be directly applicable under the agreement, i.e. directly applicable by the Lebanese administration and judiciary, and therefore do not require special legislation. The most important of these provisions relates to the State's duty under Article 3 of the Convention not to expel, return or extradite a person to another country "where there are substantial grounds for believing that he would be in danger of being subjected to torture", provided that "in determining whether such grounds exist, the competent authorities shall take into account all relevant considerations, including, where applicable, the existence of a consistent pattern of gross, flagrant or mass violations of human rights in the country concerned.

Similarly, the draft law does not include any of the provisions contained in existing Lebanese laws in a manner sufficiently consistent with the requirements of the Convention, which therefore do not need special legislation either. As for the most salient of these provisions, those relating to the provisions of the Penal Code and the principles of criminal trial concerning the validity and legality of prosecuting accomplices and instigators, and the enjoyment by victims of "an enforceable right to fair and appropriate compensation" (Article 14

of the Convention).

Therefore,

We present to the Honourable House of Representatives the attached bill, in the hope that it will be discussed and approved.

The House of Representatives has voted and the Chair issues the following law:

## **Materials**

### **Article 1**

#### **Criminalisation of torture**

Article 401 of the Criminal Code is amended as follows:

A- In this law, torture is defined as any act performed, incited or approved explicitly or implicitly by an official agent or any person acting in an official capacity in the course of a preliminary investigation, judicial inquiry, trial and execution of sentences which results in severe pain or suffering, physical or mental, intentionally inflicted on a person, including

- To obtain information or a confession from him or a third party;
- To punish a person for an act he or she or a third party has committed or is suspected of having committed;
- To intimidate or coerce any person - himself or herself or any third party - to do, or refrain from doing, something;
- To expose any person to such severe pain or suffering for any reason based on discrimination of any kind.

The above definition does not include severe pain or suffering resulting from, or concurrent with, or incidental to the punishment provided by law.

B- Anyone who commits acts of torture shall be punished by imprisonment of one to three years if the acts of torture did not result in death or permanent or temporary physical or mental injury or disability. If the torture results in temporary physical or mental injury or disability, he shall be punished by imprisonment of three to seven years. If the torture results in permanent physical or mental impairment or infirmity, he shall be punished by imprisonment of five to ten years. If the torture results in death, he shall be punished by imprisonment of

ten to twenty years.

C - The court may decide to rehabilitate victims of crimes of torture in addition to personal compensation.

## Article 2

### **Special provisions for illegal orders**

In Article 185 of the Criminal Code, the following two paragraphs are added

A person prosecuted for any of the crimes provided for in Article 401 of this Law may not give any pretext to justify his act, such as the state of necessity, the imperatives of national security, the orders of the higher authority or any other pretext.

Torture orders issued by an employee of any rank, grade or authority are in no way considered legitimate orders.

## Article 3

### **Prescription**

The following paragraph shall be added to Article 10 of the Code of Criminal Procedure

The statute of limitations for the crimes provided for in Article 401 shall begin to run only after the victim's release from prison, arrest or pre-trial detention if not followed by a prison sentence.

## Article 4

### **Evidence**

The following paragraph shall be added to Article 10 of the Code of Criminal Procedure

Any statements made as a result of any of the acts provided for in Article 401 shall be null and void in any prosecution, unless it is directed against a person accused of committing torture as evidence of such statements.

## Article 5

### **Special assets for investigation and research**

After Article 24 of the Code of Criminal Procedure, the following Article 24a is added

#### Article 24a

1- Where a complaint or notification is received by the Public Prosecutor's Office concerning the crimes referred to in Article 401, the Public Prosecutor's Office shall, within 48 hours, register the complaint or refer the matter to the investigating judge without conducting an investigation in this respect, except for security reasons.

With the exception of decisions necessary to preserve and control evidence, it will assign a forensic doctor to examine the alleged victim of torture, if the attachments to the complaint or news report do not include a medical report of the victim.

2- The investigating judge hearing the case must personally carry out all investigative procedures concerning the facts provided for in Article 401 of the Criminal Code, without delegating to the judicial police or any other security apparatus for any action, except for technical tasks.

3- The prosecution, the investigating justice or the courts may take urgent measures and decisions to ensure the protection of the complainant and witnesses from all kinds of ill-treatment or intimidation following complaints and reports received by them, and the treatment of torture victims during their hearing and trial, in a manner that preserves evidence and proof and takes into account their psychological state resulting from their exposure to torture

#### Article 6

This law shall enter into force upon its publication in the Official Journal.

Baabda 20 October 2017 Signature:  
Michel Aoun

Issued by the President of the Republic

Prime Minister

Signature: Saad Eddin Hariri

Prime Minister Signature: Saad Eddin Hariri

## **The Law of 11/01/1958**

### **Amendment of some articles of the Penal Code**

The Parliament has adopted,

The President of the Republic has issued the following Law.

**Article 1** - The application of articles 308, 309, 310, 311, 312, 313 and 315 of the Penal Code is temporarily suspended and the articles substituted by the following exceptional texts.

**Article 2** - The death penalty shall be applied for aggression or attempted aggression in the case of instigating civil war or sectarian strife either by arming the Lebanese or urging them to arm themselves against each other or by inciting murder, pillage and sabotage.

**Article 3** - The death penalty shall be applied against anyone who is the head of an armed gang or occupies any position or post of command therein with the aim of invading a city, town, certain State property or the property of certain citizens or with the aim of attacking or resisting the public force facing the perpetrators of these crimes.

**Article 4** - Capital punishment is applied against members of a yearly gang formed with the aim of committing one of the crimes stipulated in the two previous articles.

Band members who did not hold a position or mission, who were not arrested at the scene and who surrendered their weapons without resistance and before the judgment was issued are, however, protected from punishment.

**Article 5** - Anyone who ventures, with the aim of committing or facilitating one of the crimes mentioned in the preceding articles or any other crime against the State, to manufacture, possess, or appropriate explosive or inflammable materials, and toxic or burning products or elements that enter into their composition or manufacture, shall be subject to forced labour for life.

**Article 6** - Any act of terrorism shall require hard labour for life. And the same act requires capital punishment in case it results in the death of a human being or the total or partial destruction of a building in which a human being is present and in case it results in the destruction, even partial, of a public building, industrial enterprise, ship or other installations or also in the hindering of the means of intelligence services, communication, and transportation.

**Article 7** - Anyone who conspires to commit any of the crimes mentioned in the preceding articles shall be subject to life imprisonment with hard labour.

**Article 8** - The Military Courts are seized of the crimes mentioned in the preceding articles.

Beirut 11/0111958 Signed  
by : Kamil Chamoun

Issued by the President of the Republic  
Chairman of the Council of Ministers  
Signature: Sami El Solh

Minister of Justice Signature:  
Sami El Solh



Annex 3: Amnesty International press release on the return of Syrian shipwrecked persons to Syria by Lebanon, published on 18/01/2023

ENGLISH

ESPAÑOL

FRENCH

العربية



Lebanese Army handout

January 18, 2023

## Lebanon. Syrian shipwreck survivors reportedly deported

In response to informations reports that nearly 200 Syrian refugees rescued from a sinking ship off the coast of Lebanon on New Year's Eve were illegally deported and handed over to the Syrian authorities, Aya Majzoub, Deputy Director for North Africa and the Middle East at Amnesty International, said:

"The apparent expulsion of these refugees by the Lebanese army is yet another example of the authorities' contempt for vulnerable people.

||

The apparent expulsion of these refugees by the Lebanese army is yet another example of the authorities' contempt for vulnerable people

Aya Majzoub, Amnesty International

"They fled the war in Syria, endured difficult conditions as refugees in Lebanon and survived the sinking of their boat... all to, it seems, be illegally returned to the hands of the authorities they had fled. They then fell prey to corrupt military officials and smugglers.

"Lebanon must respect its obligations under international law and stop deporting refugees to Syria, where they are at high risk of arrest, torture and other ill-treatment.

## Complementary information

A boat carrying about 230 passengers, mostly Syrians, to Europe reportedly began sinking after leaving the northern coast of Lebanon on 31 December 2022. The Lebanese Navy rescue services and UN peacekeepers reportedly saved all but two passengers; a Syrian woman and child drowned.

After bringing them ashore in the Lebanese port of Tripoli, the Lebanese army reportedly loaded nearly 200 Syrians, some of whom were registered with the UN Refugee Agency (UNHCR), onto trucks and dropped them off on the Syrian side of an unofficial border crossing at Wadi Khaled, a remote area of northeast Lebanon. Forced returns to Syria are a violation of Lebanon's non-refoulement obligation not to return people to countries where they are at risk of persecution or serious human rights violations.

After crossing the border, the refugees were reportedly held by men wearing Syrian army uniforms until family members who could afford it paid to have them released and taken back to Lebanon by smugglers.

One refugee, registered with UNHCR, told Amnesty International that the Lebanese army deported him to Syria and handed him over to the Syrian army. He said that a "senior army officer in civilian clothes" then asked him for money to coordinate with smugglers to get him back across the border to Lebanon.

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