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*Lebanese Republic  
National Assembly*

# THE NATIONAL ACTION PLAN FOR HUMAN RIGHTS IN LEBANON 2014-2019

PREPARED BY

THE PARLIAMENTARY HUMAN RIGHTS COMMITTEE

in cooperation with the United Nations Development Programme  
and  
the High Commissioner for Human Rights Regional Office for the Middle East



**THE NATIONAL**  
ACTION PLAN FOR HUMAN RIGHTS IN LEBANON  
**2014-2019**

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إنّ التحليلات والتوصيات بشأن السياسات الواردة في هذا التقرير، لا تعبّر بالضرورة عن آراء برنامج الأمم المتحدة الإنمائي- مشروع تقديم الدعم التقني لمجلس النواب اللبناني.

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## Foreword

The Parliamentary Human Rights Committee is pleased to present the National Action Plan for Human Rights. A voluntary endeavor and commitment by the constitutional authorities, the plan is meant to be implemented by those authorities, each within its own competence. The ultimate goal of the plan is to protect and promote human rights in Lebanon, at all levels, including notably fundamental civil, political, economic, social and cultural rights and freedoms.

The plan defines all legislative, procedural and executive measures necessary to promote and protect human rights in Lebanon. These measures are defined for 21 areas that have been identified as top priorities for the six-year plan. To define the measures required, it was necessary to examine the current situation of the relevant rights, in law and in practice, in accordance with the standards set out in the Constitution, the Universal Declaration of Human Rights, and other relevant international human rights treaties and conventions. It was also necessary to define the specific strategies, measures and detailed actions which need to be implemented to ensure these rights are properly exercised and safeguarded.

This plan is an unprecedented achievement in the history of Lebanon. It can be appended to the various constitutional provisions, agreements and international conventions that Lebanon has signed to demonstrate its commitment to and respect of public freedoms and human rights.

This document presents a summary of the current situation of public freedoms and human rights in Lebanon, as well as practical measures that would enable the implementation of the plan by proposing the necessary laws, administrative and financial measures.

The National Action Plan for Human Rights has been drafted with the participation of all concerned authorities, under the supervision and in coordination with the Parliamentary Human Rights Committee, and in collaboration with other parliamentary committees, relevant ministries and administrations (including the Security Forces), judges, international agencies, experts and Lebanese civil society organizations working on human rights.

We would like to express our deep gratitude to all experts who carried out the sectorial studies (Annex 1) and to all individuals and institutions that assisted in making this plan possible. We also like to specifically thank the United Nations Development Programme for its continuous administrative, programmatic and financial support, the Regional Office of the High Commissioner for Human Rights for providing technical support through resident experts in Beirut, Dr. Amin Medani for his role in drafting the draft plan first, and the Justicia Foundation for Development and Human Rights, namely Dr. Paul Morcos, Ms. Myriam Youness, and Ms. Nancy Nahouli for their role in drafting the plan in its final format.

The next step, and obviously the greatest challenge, is to implement this National Plan for Human Rights. Hoping for everyone involved in this project to be given the strength to carry it out to final implementation. We will succeed if we do not consider this plan mere ink on paper, but take into consideration all of the Lebanese people whose fundamental rights to equality, dignity and freedom are violated.

**MP Michel Moussa**  
Head of the Parliamentary Human Rights  
Committee

**MP Ghassan Moukhaiber**  
Rapporteur of the Parliamentary Human  
Rights Committee

## Executive Summary

The Parliamentary Human Rights Committee prepared this plan in cooperation with relevant international organizations, and in partnership with all stakeholders. The plan aims at defining the legislative, procedural, executive and judicial measures necessary to promote and protect human rights in Lebanon. It is part of a comprehensive periodical review which Lebanon undertook to carry out in light of relevant human rights conventions, studies and reports. It seeks to address human rights issues comprehensively over a course of six years (2014-2019). It also sets out necessary planning to have it implemented. It is based on the underlying belief that the duty of the state is not limited to referring to or ratifying relevant international conventions only, but it is to exert efforts to amend or repeal any contradicting national laws, issue new ones in line with relevant international conventions, and ensure efficient and comprehensive implementation of the international law. It is also, the duty of the state to allocate the resources needed to ensure the proper implementation of the plan, in cooperation and coordination with both the public and private sectors. Therefore, it is necessary to have decrees and decisions issued (at the same time or subsequently, and it becomes the duty of the state's executive and judicial institutions, and the people in general, to respect the provisions of these decrees and decisions.

Currently, the human rights situation in Lebanon has a lot of positive aspects which can and should be enhanced. Such aspects are rooted in the general principles of the Lebanese Constitution, and the agreements and conventions that Lebanon adhered to. In fact, the state has taken a number of measures and initiatives for the better protection of human rights, both at the institutional and legislative levels. These measures and initiatives have enhanced the integrity, independence, and efficiency of the judiciary and contributed to the establishment of the Ombudsman's office as an important resource to this end. Moreover, it has made a milestone achievement by preparing a draft law to establish a national institution for human rights. All of these measures have been taken in conjunction with the endeavors of meeting Lebanon's international commitments, and achieving the Millennium Development Goals (MDGs), and in collaboration with regional and international human rights bodies.

It is extremely important to raise awareness about this plan and ensure it is communicated to the largest possible audience, in Lebanon or abroad. This may be achieved by publishing the plan and its translation on a broad scale, and incorporating it in the educational curriculums. The Parliament is also expected to work more expediently towards ensuring Lebanon's continuous adherence to international conventions, and to establish an independent institution for human rights. As for the executive authorities, they are expected to take all necessary measures to implement this plan. For example, a minister should be in charge of human rights issues, develop relevant national expertise, and prepare international progress reports in this area.

The plan identifies twenty one essential themes that represent the most fundamental rights. It describes the constitutional, legal, and international grounds upon which each of these rights depends on. It also describes the current situation of each right, including areas of weakness and areas for improvement. It concludes with recommendations for improvement and ways to address weaknesses, by defining compulsory standards to support and protect these rights. The task of implementing these standards is entrusted with both the Parliament as the legislative authority, and administrative bodies as the executive authority. As for the judiciary, it is also expected to support such implementation.

The themes mentioned above can be classified into the following basic categories:

- The rights and freedoms related to the achievement of justice including: the independence of the judiciary, the principles of investigation and arrest, the prohibition of torture and other cruel, inhuman or degrading treatment or punishment, the prohibition of enforced disappearance, prison and detention facilities reform, and the abolition of death penalty.
- The civil and political rights and freedoms including: the freedom of expression, opinion and the media, the freedom of association, the protection from interference with the right to privacy, and the prohibition of wiretapping.
- The economic, social and cultural rights including: the right to work and to social security, the right to health, the right to education, the right to housing, the right to culture, and the right to a healthy environment.
- The rights of the most vulnerable groups including: women's rights, children's rights, the rights of persons with disabilities, the rights of migrant workers, the social and economic rights of Palestinian and non-Palestinian refugees.

Moving to a more detailed presentation, the plan describes each theme and recommends relevant remedies.

**With regard to the rights and freedoms related to the achievement of justice,** the plan highlights the importance of the independence of the judiciary. It invokes, for that purpose, legal references that impose such independence, in the Constitution, national laws, or international conventions. It acknowledges the progress achieved by the various judicial entities, such as the Constitutional Council, the State Council, the Court of Cassation, military, special and religious courts. It also identifies some main areas for improvement, including the need to minimize political interference in the judicial process, the need to reform military courts, particularly by abolishing their jurisdiction over civilians, the need to enhance the jurisdiction and the possibility of having recourse to courts, and the need to tighten control over the judicial system. The plan also calls for the revision of the administrative subordination to the judiciary to maintain the separation of powers and ensure a greater degree of judicial independence from the executive power. It also addresses the need for enhanced transparency, and litigants' trust in the judiciary. In addition, it addresses issues of prolonged litigation and overburdened courts with large caseloads.



In pursuance of the above mentioned goals, the plan suggests amendments to the judicial structure. These include urging the Parliament to establish a higher judicial authority to support the independence of the judiciary, restricting the jurisdiction of military courts to militants only, and supporting and empowering the Constitutional Council. They also include the rehabilitation of the Justice Council, and the provision of a greater degree of functional independence for judges. They seek the establishment of the principle of the state responsibility for the acts of judges, and conclude with the goal of reducing the financial obstacles that prevent resorting to the judicial system.

The Council of Ministers and public administrations should assume a supervisory role over the duties of judges and protect them from harm. The jurisdiction of the courts needs to be expanded by upholding to the principle of 'having interest in the dispute' as a condition for submitting lawsuits. Additionally, legal aid programmes and financial allocations should be made available for litigants to meet these ends.

**With regard to the guarantees of investigations and arrest**, the plan takes a moderate approach to this end. It balances the need to protect national security with the need to respect individual rights and freedoms. It highlights some practices that are detrimental to such a balance as provided under international conventions and covenants; e.g. lack of control over the judicial police, in some instances.

Therefore, the plan urges the Parliament to provide greater guarantees for human rights in the course of investigations and arrests. Such guarantees include the right to the presence of a lawyer during investigations conducted by the judicial police, and defining maximum periods of detention. The plan also requires the executive authority to develop its practices of reporting and investigational procedure, and improve the communication channels among specialized prosecution departments. All of these processes should be under the supervision of the judiciary, which is, in turn, urged to protect the rights of detainees and ensure integrity in law enforcement.

**Torture and cruel inhuman treatment** are covered by many international legal agreements due to their stand on human dignity. Great attention has been given to those instances where authorities abuse a defenseless person. In such scenarios, it is necessary to protect the weak party. Therefore, the plan addresses current shortages in the Penal Code and the Code of Criminal Procedure by adopting the protective measures indicated in relevant international legal conventions. But even though Lebanon adopted the aforementioned measures and adhered to such conventions, it still falls short on their implementation. However, the plan sheds light on some positive achievements, such as the establishment of a committee to follow up on incidences of torture and cruel treatment, and the judiciary's condemnation of the use of violence during investigation.

Nevertheless, the improvement that the plan seeks to achieve is for the Parliament to ratify legislative amendments which provide for a stricter punishment for perpetrators of

torture and cruel treatment in line with the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (United Nations Convention against Torture). For this purpose, it is necessary to develop and adopt national measures to combat torture practiced by the judicial police or other parties. Such measures should be backed up by the executive authorities who shall enforce the provisions of the United Nations Convention against Torture. They should also include the guarantee that the members of the judicial police shall be more efficient in the course of exercising their duties, particularly when controlling prisons and detention facilities. In addition, administrative and material procedures should be enhanced to combat torture and its systematic use in preliminary investigations. These endeavors must be supported by the judiciary's adoption of all measures necessary for immediate intervention when violation cases are to be investigated. There is also a need for enhancing the observance of the legal guarantees available to combat torture and cruel treatment, and collecting evidence in support of such detected violations.

**With regard to enforced disappearance**, the plan urges that this issue be given due attention. Enforced disappearance is one of the most severe consequences of the Lebanese war. The plan actually detects the failure of the government to deal with this issue and describes how doubts have been raised over this matter. Although parents and family members of those subject to enforced disappearance have tried to push the government to care better for this issue, no tangible improvement has occurred in this regard.

Accordingly, the plan urges the Parliament to take the necessary measures to implement the International Convention for the Protection of All Persons from Enforced Disappearance. Such measures include, for example, the criminalization of acts stipulated in the Convention, the establishment of a national body who would be responsible for the implementation of the Convention, carrying out investigations about missing persons and people who have been victims of enforced disappearance during the wars in Lebanon. The executive authorities are urged to build their capacities for the implementation of the above mentioned Convention. This can be done for example, by developing identification mechanisms, protecting mass graves and reinforcing the remembrance of national culture. This includes also enhancing the role of the judiciary in looking into kidnapping cases, disclosing the presence of mass graves and taking relevant decisions in this regard.

**The plan addresses the dismal conditions of prisons in Lebanon.** Prisons are overcrowded, lack fair treatment and suffer from resource shortages. More alarming is the increasing number of persons being provisionally detained. This is combined with the lack of sanctions legislation, weak administrative regulations and poor human and financial resources to implement the sanction plan. These circumstances give sanctioning negative effects. However, the plan highlights some positive achievements, though limited in scope and number. These include the transfer of prison management from the

Ministry of Interior Affairs to the Ministry of Justice, the establishment of a committee to combat torture, and the automation of prisoners' files.

Taking all of the above into consideration, the plan presents comprehensive details about prisoners' treatment in prisons and detention facilities. It calls for the establishment of a number of prisons in various governorates, and the establishment of juvenile correction and rehabilitation centers for both genders. It also calls for the need to ensure that all prisons abide by all standard minimum rules for the treatment of prisoners. Hence, current prisons (except the Central Prison of Jounieh) should be replaced with central prisons in the Governorates of the North and the South, while other prisons should be well maintained until such central prisons are established.

Furthermore, the plan calls for closing the prison of the Ministry of Defense in Yarze, and the prison of the Lebanese Internal Security Forces. It suggests replacing them with an independent facility within Roumieh Prison, that would be dedicated to maximum security protection prisoners, provided that the mentioned prison meet the required specifications and standards. In general, the plan acknowledges the need to provide cells and detention facilities, other than prisons, with the basic standard requirements.

**The plan also addresses the need to guarantee the rights and freedoms of persons under provisional detention.**

It contemplates the need to shorten detention periods by accelerating investigation processes and proceedings, minimizing the recourse to and abide by the conditions of provisional detention. It suggests the use of alternatives to detention or imprisonment such as fines, additional compensation, and community service. It indicates that the fundamental rights of provisionally detained persons should be protected, including, for example, the right of persons to be presumed innocent until otherwise proven guilty, and the right to exercise political rights such as the right to vote. The plan aims also at enhancing the objectives and benefits of the Law on Execution of Sanctions. It is a law referred to in order to release prisoners under certain conditions, not only for the purpose of dealing with the problem of overcrowded prisons, but also to provide positive incentives to improve the behavior of prisoners and facilitate their integration into society upon release. Moreover, the plan suggests reviewing sanction policies to prevent overcrowded prisons. For instance, an independent department for judicial enforcement should be established to supervise the implementation of freedom deprivation sanctions, as well as ancillary and alternative punishments. In addition, prisoners should be released immediately after the end of their terms of imprisonment, and the imprisonment year should be decreased from the standard 12 months to 9 months for example. Harsher sanctions, however, should be contemplated for drug related crimes. But a distinction must be made between drug trafficking and drug abuse offenses. Other measures should be sought to enhance objectives of punitive plans. The plan also acknowledges the need to classify prisoners and adopt different treatments for different categories of prisoners. This includes, for example, separating sentenced convicts from detainees, and classifying prisoners according to the nature and seriousness of the offense committed.

**The plan gives special attention to juveniles.** It emphasizes the need to refer juveniles to specialized rehabilitation centers. It also gives equal attention to women, by highlighting the hygienic and medical needs of pregnant prisoners and infants under the age of two who accompany their mothers in prison. It also suggests that prisoners with special needs, such as addicts and mentally disabled persons, should be given special treatment. Furthermore, it calls for deporting foreign prisoners as soon as they finish their terms of imprisonment. This should be done by expanding the scopes of implementation of extradition agreements. The plan also suggests that the basic needs of prisoners such as ventilation, toilets and food, requirements for people with physical disabilities, and health and medical care for prisoners, should also be satisfied.

**Believing in the rehabilitative role of punishment,** the plan gives considerable attention to the need to take the educational and cultural level of prisoners to new heights. It stresses on the need to enhance the freedom of worship and the performance of religious rituals. It advocates the implementation of literacy programmes, the provision of libraries, entertainment facilities and cultural programmes in prisons. It also suggests allowing physical and sports activities along with the opportunity to perform works and other activities in prisons. Furthermore, the plan calls for workshops to empower prisoners, so that they can successfully be integrated in the labour market after their release. It acknowledges also the right of prisoners to get in touch with the outside world by allowing visits conveniently, in order to help rehabilitating and enabling prisoners to maintain healthy social relations with their families and friends.

**Furthermore, the plan addresses the need to reconsider the regulation of the management of prisons.** It introduces rules of procedure that regulate the functions of its concerned management departments and ensures that prisons are always under the authority of the Ministry of Justice in close cooperation with relevant ministries. It also emphasizes on the provision of technical and administrative support to ensure the departments' smooth operation. The plan also calls for a transitional phase until functions and responsibilities are fully transferred to the Ministry of Justice. This requires the establishment of a public authority to control prisons and adequate personnel and human resources for the proper operation of prisons, among others.

The plan also acknowledges the need to discipline prisoners who violate internal rules while preserving their rights of defense. Such prisoners should be given the chance to submit complaints against prison officers in order to seek remedy for any instances of torture, violence or mistreatment that they face during inspections. The plan further highlights the need to lay down a framework to control and inspect prisons regularly while focusing on the need to combat inhuman treatment and torture.

**As for the death penalty,** the Lebanese legislation still supports it although it is abolished internationally or at least restricted to the most serious crimes. The judiciary has put a moratorium on this sentence, and a proposal has already been submitted to abolish this

penalty. However, it has not received the attention it deserves. As a result of the heated debate over the death penalty, the plan urges the ratification of the Optional Protocol to the International Covenant on Civil and Political Rights. It suggests the consideration of the possibility of abolishing death penalty, and urges executive authorities to maintain the moratorium, and replace the death sentence with life imprisonment. It also suggests the control of the execution of the sanction and the rise of awareness about the advantages and disadvantages of death penalty abolition. It encourages the judiciary not to resort to this penalty except for the most serious offenses.

**With regard to civil and political rights and freedoms,** the plan highlights the critical role of the freedom of expression, opinion and the media as one of the most important pillars of a pluralistic democratic society. It praises some current practices and the comparative advantage that Lebanon enjoys in this regard. It suggests the issuance of laws to regulate the relevant freedoms, including the Access to Information Law. Other existing relevant laws must be updated including, for example, the Press and Publication Law and the Law on Radio and Television Broadcasting, in order to guarantee the freedoms of expression and opinion. Such guarantee may be offered by removing restrictions imposed on the freedom to establish and operate print media, and removing the obtaining of a license prior to the operation of media businesses. It may also involve the regulation of rights and freedoms of journalists, and the clarification of the meaning of some terms in relevant legislation to ensure appropriate implementation. Ambiguous terms or expressions include, for example, 'inciting sectarian sedition', 'inciting strife', and 'defamation and libel', etc. In addition, there is a need to regulate the various aspects of audiovisual media sectors, such as the regulation of the use of radio frequency, encrypted broadcast and the privatization of government owned media.

The plan also acknowledges the need to protect the media from suspension decisions, the need to vest a competent court with broader jurisdiction to issue suspension decisions. It defines violations that entail the suspension of the operation of media entities. It urges public administrations to revise control and monitoring practices that are applicable to the freedom of media, such as the control of the admission of foreign printed media to the country, theatrical works, books, and magazines. It also addresses the need to provide the required guarantees for the freedom of journalists when facing investigation officers, the need to allocate publishing areas in public places, carry out and define methods to carry out statistical analyses, and monitor the use of the internet in order to protect children.

**With regard to freedom of association,** this right is deeply rooted in Lebanon. However, there are still some practices and laws that contradict this concept. There are currently two categories of associations: those that only require a notification for establishment, and those requiring a license. Regrettably, recent practices have enabled the authorities to interfere widely in the formation of associations, which makes it more difficult for associations to be established by virtue of a "notification for establishment". Besides, there

are no clear regulations about syndicates and about how they are funded. Therefore, the plan urges the Parliament to ratify the International Labour Organization Convention on the Freedom of Association and Protection of the Right to Organize, 1948 (no. 87) to guarantee the freedom of professional organizations. Consequently, a number of local laws, such as the Lebanese Labour Law, should be amended in order to incorporate such rights. Furthermore, more emphasis should be given to the advantages of the Law on Associations, and necessary amendments should be made to enhance such positive approaches. This requires regulating the sources of funds for associations, among others. The plan considers the executive authorities and the judiciary as key players in this process. They can both ensure the best implementation of provisions regulating these freedoms. Moreover, they can both obviate legislative flaws and failures until they are remedied by adopting the principle of freedom of association into their practices and interpreting legal provisions to support such freedoms. In this framework, it is very important to abolish the requirement of prior licensing and to replace it with a simple notification known in Lebanon as the “press notification”. It is also essential that such notification be easily communicated to competent authorities as much as it is important to separate the establishment of associations from any investigations carried out by the competent bodies.

**When it comes to the protection of privacy,** it is evident that the protection from wiretapping has not been covered by explicit provisions in the legal and international human rights instruments. However, the right to privacy implicitly includes the right of protection from wiretapping. But it is obvious that the Lebanese laws have failed to protect this right duly. Even though the level of protection of this right is more or less acceptable, the reality reveals that violations of rights of this kind are difficult to investigate and report. Reality also shows how officials are lenient about this matter. The plan entrusts the Parliament with a number of duties to detect instances whereby wiretapping is necessary by weighing the right to privacy with the needs of crime investigations. For this purpose, it is very important to determine prudently instances where wiretapping is allowed. Such instances must be limited to preliminary investigations and not to the judiciary process. They should be restricted to crimes of specific seriousness. At the same time, authorities should guarantee the right to appeal against wiretapping decisions, impose stronger punishment on judicial police officers who disclose information through wiretapping, and prohibit the use of such information for political purposes. Most importantly, the plan recommends the Parliament to improve Law no. (140/1999), by specifying the cases of ‘extreme necessity’ provided for in the Law. It recommends setting a defined period for wiretapping and regulating the extension of that period. It entrusts the Council of Ministers and other public administrations with the duty of increasing the technical protection of communications data and improving relevant security and administrative systems to enable the proper implementation of laws mentioned above or those to be issued as recommended. This requires building relevant institutional and functional capacities by providing the necessary equipment and the qualified personnel. It also requires that the administrative body entrusted with the duty of implementing such

provisions be effective. Despite these measures, the most important factor in this regard is the existence of a serious political intention to respect privacy and protect it from being abused.

**As for the right to work,** the plan recognizes the need for balance between the perspective of workers who rely on their work to earn their living, and the interest of employers in maintaining labour costs within reasonable limits. Hence, the plan identifies some challenges and impediments related to the right to work and to social security. The right to work still needs to be reformed despite the serious official efforts exerted to overcome such challenges. The efforts exerted include the establishment of a number of institutions aiming at ameliorating the situation of workers and protecting labour rights, such as the National Labour Council, and the National Employment Office. Therefore, the plan suggests the initiation of legislative reforms to protect the right to work and to social security. Such reforms are based upon the unification of relevant bodies and authorities, with a special attention to the regulation of child protection, the prohibition of human trafficking, and the Lebanese and foreign workers. With regard to social security, reforms should embrace the provision of social security to all citizens, the fair treatment of all workers in different sectors, and the establishment of a connection between the outputs of education and the labour market. Reforms target also the role of the Ministry of Labour in labour control and inspection as well as the regulation of the finances of the National Social Security Fund.

**As for the right to health care,** it faces many challenges in Lebanon, because of a shortage in funds mainly due to spending burdens, huge arrears, limited efficiency compared to costs, lack of justice in providing medical care to beneficiaries and the deprivation of eligible persons of social security and end of service benefits. However, certain achievements realized within the sector despite poor resources should be praised. These mainly include health improvement, greater life expectancy at birth, lower infant mortality rates, improved control over the spread of communicable diseases and epidemics, and increased health awareness. The plan stresses on the need for coordination between insurers and the Ministry of Health. It also highlights the need for a unified public insurance programme, making the right to good health and the principle of health for all a reality. It suggests that health care systems must be financially and technically managed and supported by a qualified pharmaceutical industry that promotes the manufacture and rationalizes the use of medicines.

**Regarding the right to education,** the plan acknowledges that the principles of free and compulsory education are applied in Lebanon. However, their implementation is challenged, mainly due to unequal opportunities across different geographical areas, the different levels of student achievement at private and public schools, and the imbalance of higher education fields that students choose to study. Furthermore, there is a need to improve the quality of education (including higher education), to improve curriculums, to empower educational staff, and create a stimulating learning environment. Therefore,

the plan recommends improving the ties between education and human rights. It suggests that the Parliament issues a law that provides for compulsory education up to the legal age regardless of nationality. It also calls for the Council of Ministers and public administrations to put that approach into practice by executing the relevant national strategy, integrating human rights in education, and promoting equality in classrooms. The plan also recommends empowering Lebanese universities and rationalizing the use of resources in education. To this end, it stresses on the importance of cooperation among all parties involved in education to achieve these goals. According to its recommendations, education roles should be distributed among a number of stakeholders. Private and public educational institutions are expected to provide qualified teachers, improve the learning environment and contribute to development. Local administrations are expected to ensure that all children enroll in schools and combat child labour. The plan also involves parents and teachers alike for the success of this initiative. Non-governmental institutions and media play a supervisory role and raise awareness, while maintaining a high level of cooperation with international organizations.

**With regard to the right to housing,** housing issues in Lebanon still need to be addressed. Despite the large number of international players who have acknowledged the right to housing and the efforts that the Lebanese government has exerted to solve this matter, in terms of housing or regulating the landlord-tenant relationship, the country's economic situation makes it more complicated for the government to find a remedy in this regard. In fact, the Lebanese people have suffered from a significant housing crisis. There are a lot of marginalized, disadvantaged and poor groups of people. The Rent Law has been extended since 1992 and the real estate sector witnessed an exponential growth. Although many initiatives have been launched in this regard, the improvement of housing is still far from reality.

The Parliament plays a substantial role in reforming the laws to make the right to housing a reality. This can be initiated through the amendment of the Rent Law and the laws regulating construction. Executive authorities can set strategies and policies to meet housing needs and rehabilitate slums. Likewise, the plan affirms the necessity to meet various transportation needs, and direct tax measures to this end.

**With regard to the right to culture,** the economic situation has negatively affected the Lebanese cultural scene. The high cost of living has put cultural products out of reach of the majority, which makes them affordable to the elite only. Despite the tremendous efforts exerted by the Ministry of Culture, the challenge still outweighs the efforts.

In order to face this challenge, the plan entrusts the Parliament with the duty of ensuring that Lebanon adhere to the conventions supporting the right to culture. It should also make all necessary legislative amendments to replace any prior control over cultural products with a subsequent one. Executive institutions are requested to undertake a few missions aiming at ensuring cultural pluralism. These include the protection of



archaeological sites, the protection of intellectual property rights, the establishment of research centers, and a greater attention to museums and cultural centers.

**As for the protection of the environment,** there are a lot of international references which address this matter. Lebanon, however, does not have clear legal regulations for the protection of the environment, nor does it have adequate social awareness or technical expertise. This in fact necessitates a thorough legislative and executive review of the Lebanese approach towards the protection of the environment. Therefore, the plan requests public administrations to give the protection of terrestrial and marine environments due attention. It calls for the implementation of legislation and agreements for the protection of forests, the regulation of quarries, the protection of the marine environment and the rise of environmental awareness. It also suggests that the Environment Fund reach financial independence and recommends the increase of budgetary allocations to protect the environment. The judiciary is expected to support such endeavors by improving environmental laws.

**The plan gives remarkable attention to women's rights.** In this respect, the situation in Lebanon is contradictory to a certain extent. On one hand, Lebanon adhered to many international conventions that aim at ensuring women's equality and rights. On the other hand, social considerations led Lebanon to refrain from implementing some of the provisions of these conventions. This is particularly noted with regard to personal status and nationality. Recently, some positive legislative amendments have been enacted to reduce discrimination against women. Accordingly, the plan looks into this issue in detail. It urges Lebanon to withdraw its reservations about the provisions of the International Convention for the Elimination of All Forms of Discrimination against Women and to make necessary legislative reforms to abolish all forms of discrimination against women. It also suggests raising awareness of this issue and taking special measures to improve the current status of women until the needed legislative amendments are implemented. This includes incorporating the quota system and giving women the chance to participate in political and economic life.

**Regarding children's rights,** additional measures are required in order to defend these rights. This vulnerable group is still under protected in spite of existing children's rights laws. Children should enjoy their rights commensurate with their age and stage of growth. Lebanon ratified a number of international conventions on children's rights, and issued a number of relevant instruments. Yet, and despite substantial efforts exerted in this regard, some problems are still visible, namely child labour. Therefore, the plan urges the Parliament to adhere to international conventions for the protection of children's rights. Legislative amendments are needed to improve the situation of children and juveniles according to the above mentioned relevant international conventions. As for the executive authorities, they are expected to support compulsory education and develop plans and strategies to protect refugee children.

Additionally, they are required to provide all the support needed for child protection, especially during early childhood, to provide health care for children and put the situation of children in Lebanon under continuous supervision. Since civil society associations have closer day to day contact with children, they are expected to raise awareness on the importance of children's participation and to educate children about their own rights.

**With regard to the rights of persons with disabilities,** legislation has been issued in favor of this category of people, but still faces challenges and remedying this issue is still far from reality. Free medical care is not provided for non-insured persons with disabilities although the law stipulates the contrary. No action has been taken to make public facilities or public transportation accessible to persons with disabilities. In addition, legal provisions granting persons with disabilities housing, labour, and tax exemption rights are sometimes not applied. For all these reasons, the plan suggests that the Parliament provide the legislative framework needed for supporting the rights of persons with disabilities by adhering to relevant conventions such as the Anti-Personnel Mine Ban Convention. This can also be achieved by the revision of national legislation. Public administrations, particularly the Ministry of Social Affairs, are expected to work towards the integration of persons with disabilities into society. They should encourage a culture of non-discrimination, identify and meet the needs of persons with disabilities, and create suitable job opportunities for them to ensure their social integration. As for the judiciary, it is expected to impose harsher sanctions for crimes against persons with disabilities, especially when such disabilities prevent these persons from self-defense.

**With regard to migrant workers,** Lebanon relies upon their presence. Although protection is offered to registered and non-registered migrant workers at different levels, many workers are still victims of serious abuse. This is due to the fact that Lebanon has not yet ratified any convention protecting labour rights. Therefore, the Parliament is expected to regulate the situation of migrant workers, and they should be offered increased protection by the government. That is why the plan suggests that Parliament ratify the relevant international conventions. These measures should be supported by the establishment of administrative institutions required to control the employment of migrant workers and raise awareness for their rights.

The plan takes also into consideration the social and economic rights of Palestinian and non-Palestinian refugees.

**With regard to the rights of non-Palestinian refugees,** Lebanon did not ratify the 1951 Convention relating to the Status of Refugees, nor does it have a comprehensive legal framework to deal with refugees and asylum seekers. However, the Lebanese law acknowledges the right to asylum. Additionally, the United Nations High Commissioner for Refugees (UNHCR) registers asylum cases which, according to the Lebanese state, fall under its jurisdiction. Despite the Memorandum of Understanding signed between the Lebanese government and UNHCR, practical implementation is still defective.

For example, asylum as described by UNHCR has no particular legal effect under the Lebanese law. This actually deprives refugees of numerous rights. The judiciary is trying to address the issue by providing greater protection for refugees and considering other solutions to deportation. But Lebanon is not a permanent destination for asylum seekers who are usually resettled in third countries. The plan suggests that the Parliament review the laws related to refuge and asylum, and that Lebanon adhere to relevant conventions. It urges public administrations to balance the humanitarian needs of refugees with their legal accountability in case of breach of the Penal Code. The plan stresses that no person should be detained without legal reason. Refugees, like other people, have the right to proper procedures. When necessary, international cooperation can be drawn upon in this matter, taking into consideration the living conditions of asylum seekers while their cases are under examination.

**Last but not least, the plan acknowledges the special situation of Palestinian refugees in Lebanon.** It highlights the legislative measures that have been taken to ensure that Palestinian refugees enjoy a number of fundamental rights, such as the right to relocate and travel, as well as the right to housing. The Lebanese state recognizes Palestinian refugees and issues their identity cards and travel documents. However, the travel of refugees is still subject to many restrictions. As for the right to work, new legislation improved the chances of employing Palestinian refugees. To this end, the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) exerts substantial efforts in this regard. As for the right of ownership and housing, Palestinian refugees have suffered from continued discrimination. They are prevented from owning properties in Lebanon, unlike other foreigners, and refugee camps are still overcrowded although the Lebanese government has eased restrictions on the entry of building materials to camps. As for medical care, the Lebanese government cooperates with UNRWA to provide it. In general, Palestinian refugees enjoy educational rights as a result of an effective cooperation between the government and UNRWA. However, the situation is somewhat complicated with regard to Palestinian refugees' right of association. This is why mixed associations are being established. These are associations where Lebanese persons are the founders and Palestinians are the executive members, hence the complication.

It is expected that the Lebanese Parliament grant Palestinian refugees the right to establish and join associations. Concentrated efforts must be made to improve their living conditions. They should be encouraged to participate in projects relevant to them. Job opportunities should also be provided to them and housing issues in the camps should be addressed. The plan also calls for enhancing development partnerships with UNRWA, rebuilding and facilitating the return of refugees to Nahr El Bared Camp. The plan also gives particular attention to health care and educational services offered to Palestinian refugees. In fact, Palestinian refugees should be able to benefit from public health services. These include admission to public hospitals and benefit from other programmes and services offered by the Ministry of Health. As for education, it is

urged that opportunities for Palestinian refugees to enroll in public schools and higher education institutions be enhanced. Public awareness should be raised on the rights and living conditions of Palestinian refugees. To this end, UNRWA is encouraged to expand its role in improving the living conditions of Palestinian refugees until a permanent solution to their problem is reached.

There is no doubt that Lebanon has a long road ahead to have the ideal human rights situation. While tremendous efforts still need to be exerted, this plan underlines many positive aspects that can be built upon. These include the multiple legislative provisions that acknowledge the majority of human rights and the commitment of Lebanon to adhere to key international conventions and covenants supporting such rights. The plan predicts a better and brighter future for Lebanon if the recommendations it suggests are fully implemented. The cooperation of all public authorities is the ideal way to realize this plan aiming at the respect and protection of human rights in Lebanon in accordance with its historical and cultural standards.

## **Chapter (1): General Framework**

### **I- Methodology and Executive Measures for Follow Up and Implementation**

This National Action Plan for Human Rights in Lebanon is an initiative launched by the Parliamentary Human Rights Committee, and is in line with the recommendations of the Vienna Declaration. It is the result of the concerted efforts of various public and private authorities. It has been drafted with the assistance of experts specialized in sectorial studies and was open to the largest participation possible through the discussion of these studies during workshops attended by specialists from public and private institutions.

Hence, more than 70 workshops related to civil, political, economic, social and cultural human rights, gathered all parties involved in the plan. Each workshop was attended by a working group of persons from the Human Rights Committee, other concerned parliamentary committees, ministries and public administrations, local and international non-governmental organizations in Lebanon and a number of experts.

#### **1- Objectives of the plan**

The plan aims at defining the legislative, procedural, executive, judicial and social measures necessary to promote and protect human rights in Lebanon. These measures are defined for 21 areas that have been identified as top priorities during the six year plan. That required, first, determining the human rights standards set out in the Constitution, the Universal Declaration of Human Rights and other relevant international human rights treaties and conventions. Second, it required determining the current situation of these rights both in law and in practice. Third, it required defining the specific strategies, measures and detailed actions which need to be implemented to ensure these rights are properly exercised and safeguarded.

#### **2- Plan drafting management and cooperation with UN agencies**

Based on the approved principles regulating the National Action Plan for Human Rights in Lebanon, a special agreement was signed with the United Nations Development Programme (UNDP) at the Lebanese Parliament and Regional Office of the High Commissioner for Human Rights (OHCHR). Parties agreed to assume the following responsibilities:

##### **a. The role of the Parliamentary Human Rights Committee**

The Parliamentary Human Rights Committee sponsored the drafting of the national action plan. It supervised and coordinated all activities with all relevant parties, including other parliamentary committees, ministries, public administrations and civil society organizations. The committee also cooperated with the UNDP's project at the Parliament and OHCHR. Practically, a sub-committee also called the steering committee, consisting of MP Dr. Michel Moussa, Head of the Human Rights Parliamentary Committee, and MP Mr. Ghassan Moukhaiber, Rapporteur of the Committee, was formed. It was in charge of the administrative coordination of all

matters related to the plan. With the help of a drafting working group, Mr. Ghassan Moukhaiber was also responsible for incorporating all versions and amendments received in one single document.

#### **b. The role of the United Nations Development Programme (UNDP) and the Regional Office of the High Commissioner for Human Rights (OHCHR)**

The OHCHR Regional Office in Beirut provided assistance to the Human Rights Committee, the steering committee, the Rapporteur, the sectorial working groups and experts in all legal matters and international human rights standards. The assistance of OHCHR was invaluable throughout the drafting process and discussions, as well as during the revision of sectorial studies and subsequent drafts.

The UNDP's project at the Parliament assisted the Human Rights Committee and the steering committee to fulfill several administrative tasks related to drafting the plan, particularly the following:

- Provision of logistics for the working groups, coordination of meetings and workshops, especially during the International Human Rights Day celebration.
- Designation and selection of experts for the preparation of sectorial studies, in cooperation with the steering committee.
- Coordination of communications with international organizations involved in the plan, particularly OHCHR.
- Plan follow-up, coordination and submission to the Parliamentary Human Rights Committee.
- Printing, publishing and distribution of sectorial studies.

### **3- Participation of all parties involved in the plan drafting**

The National Action Plan is the responsibility of the society as a whole. It is not restricted to one party exclusively. Hence, it required the participation of all parties in order to be drafted. Those are: the Parliament, the government, human rights organizations, civil society organizations and international bodies operating in Lebanon, especially the Regional Office of the High Commissioner for Human Rights. These parties participated in the sectorial working groups responsible for examining the top priority issues. They also participated, in a later stage, in general seminars to discuss sectorial overviews and adopt the national plan draft.

### **4- Lebanon's obligations under the Universal Periodic Review**

On November 12, 2010, the Lebanese government undertook to complete this Action Plan for Human Rights as it was very important. It further recommended that the plan be complemented by a large number of recommendations passed on to it in the context of the Universal Periodic Review at the UN Human Rights Council in Geneva. In addition to completing the plan, the government also undertook to implement a series of other human rights measures. Though insufficient and less comprehensive, they are still considered a positive step towards the development of human rights in Lebanon.

## 5- The plan legal resources and references

The Parliamentary Human Rights Committee had to assess the current situation of human rights in Lebanon, and suggest necessary strategies and executive plans. To that end, it relied on the provisions of the Constitution and the International Bill of Human Rights which consists of the Universal Declaration of Human Rights and the two covenants for civil, political, economic, social and cultural rights ratified by Lebanon in 1972, in addition to other human rights international covenants, treaties and conventions signed by Lebanon.

The following instruments have been taken into consideration for the drafting of the plan:

- a. UN human rights instruments.
- b. Sectorial studies prepared by the consultants.
- c. Special reports on the Universal Periodic Review for Lebanon, 2010 (the national report, information and data collected by the United Nations High Council on Refugees (UNHCR), and the report of the team involved in the Universal Periodic Review).

## 6- The plan coverage and priority issues

The plan includes 21 top priority issues. These are related to civil, political, economic, social and cultural rights considered by the Parliamentary Human Rights Committee as the most violated rights in Lebanon. Each issue has been addressed in-depth, in a separate section. However, all issues can be divided into the following four categories:

- a. Rights and freedoms to achieve justice:** independence of the judiciary, principles of investigation and detention, torture and other cruel, inhuman or degrading treatment or punishment, enforced disappearance, prisons and detention facilities, death penalty.
- b. Civil and political rights and freedoms:** freedom of expression, opinion and media, freedom of association, Protection from interference with the right to privacy and prohibition of wiretapping.
- c. Economic, social and cultural rights:** the right to work and to social security, the right to health, the right to education, the right to housing, the right to culture, the right to a healthy environment.
- d. Rights of vulnerable groups and individuals:** women's rights, children's rights, rights of persons with disabilities, rights of migrant workers, social and economic rights of non-Palestinian refugees, social and economic rights of Palestinian refugees.

If an issue or a right is not specifically covered in the plan, that does not imply that such right is not violated in Lebanon, nor does it mean that it is not the subject of debates or discussions in the country. (Such issues and rights include for instance the freedom of religion and belief, sects and secularism, and the abolishment of political

sectarianism, among others). It is just that at this phase, certain issues were prioritized for this plan while others will be addressed in subsequent human rights plans.

## **7- Plan drafting procedure**

- a. Twenty three working groups were formed. They included the following: 1) Members of Parliament, 2) representatives of competent ministries, 3) representatives of human rights organizations, civil society organizations and specialists, 4) representatives of competent international organizations, and 5) experts.
- b. Twenty three sectorial studies were developed by experts specialized in each area (this number came later down to 21). Work papers were drafted following a common methodology that consisted of the following:
  - The review of applicable standards: international treaties and national/local applicable laws.
  - The review of the status of practices: in laws, decrees and enforced decisions, as well as in adopted policies and practices, challenges and obstacles.
  - The proposal of strategies and executive measures necessary for the observance of human rights standards while defining priorities and institutions concerned with the implementation process.
  - The assessment of the implementation cost, where possible.
  - The definition of measures for the implementation, monitoring and assessment of the sectorial plan.
  - Sectorial studies were discussed among working groups within one or several meetings. They were then amended and complemented in light of these discussions. The working groups held over 70 meetings in total. It is necessary to point that this phase took more time than expected due to the successive political crises that left public institutions paralyzed for several months. Nevertheless, some working groups kept meeting even when other institutions were not working.
  - The majority of completed sectorial studies were published in booklets and widely distributed.
  - The National Action Plan for Human Rights was drafted on the basis of the completed sectorial studies, the positions, discussions and observations of the working groups and the national plan drafting methodology.
  - The plan was submitted for public discussion to the competent parliamentary committees, ministries, relevant administrations, international bodies, competent human rights associations and experts. It was published online on the website of the Parliament. Copies thereof were sent to relevant ministries, other official parties and human rights associations. The Rapporteur of the Human Rights Committee and the drafting working group received a lot of written remarks and oral comments, many of which were taken into consideration when the draft of the plan was rewritten. The Parliamentary Human Rights Committee discussed the draft plan and approved it as it is now. The plan comprises 357 recommendations to be considered by the Parliament, the Council of Ministers, public administrations, the judiciary and civil society organizations.



- The draft plan was submitted as a draft recommendation by the Parliamentary Human Rights Committee to the General Assembly presided by the Speaker of the Parliament to be discussed, approved and resubmitted to the government and the judiciary.
- The Lebanese government should discuss this plan / recommendations and take the proper decisions in this regard. It is hoped that the plan will be approved and complied with as it is.
- The plan should be published and distributed at a large scale.
- Programmes and projects related to the national plan should be implemented and monitored.

## **8- National plan implementation timeline**

The implementation of many of the National Plan for Human Rights recommendations requires serious efforts to be exerted by the Parliament, the Council of Ministers, relevant administrations, the judiciary, the National Institution for Human Rights (after it is established), civil society organizations and human rights associations. These efforts include conducting detailed studies and research (when necessary), revising and amending effective legislation, decrees, decisions and administrative practices, training and empowering human resources to implement the plan and raising social awareness about human rights. To achieve those goals, the plan defines a period of six years (2014-2019) for its complete and comprehensive implementation, and takes into account revisions and improvements according to developments and circumstances occurring in its implementation phase. Therefore, it is important to have the plan gradually implemented gradually. In fact, the plan has interim objectives that should be achieved in phases and within applicable programmes and activities defined according to the priorities previously set.

## **9- Follow up on the national plan implementation**

The national plan defines how it should be put into effect and implemented. It comprises several general and sectorial executive measures that should be implemented by a number of public and private bodies. These include the Parliament, ministries, public administrations, the judiciary, local councils and committees, civil society organizations and human rights associations, each within the limits of its competence. Hence, the national plan actually defines the obligations of each and every one of the above mentioned bodies.

However, the availability of a central authority is still required to coordinate the efforts of the above mentioned authorities. This central authority shall be responsible for monitoring and evaluating developments towards the achievement of the plan objectives. It shall be supplied with human resources experienced in human rights issues. It shall also be supplied with the material and logistic resources needed. The central authority can also benefit from international cooperation programmes with organizations operating in the same field. Its duties and tasks can be temporarily

performed by the Parliamentary Human Rights Committee until the National Institution for Human Rights is established as a permanent standing authority in charge of monitoring and controlling the plan implementation. After extensive deliberations with experts and representatives of concerned civil society organizations, MPs Michel Moussa and Ghassan Moukhaiber proposed a law regulating the establishment of this institution. The proposal was discussed among parliamentary committees but it is still not approved, even after the publishing of this national action plan.

#### **Follow up and implementation executive measures**

1. Publish and distribute the National Plan for Human Rights by all means possible, especially through the media. Prepare introductory audiovisual, print and electronic programmes.
2. Incorporate the plan into the academic curriculum of schools and universities.
3. Organize seminars, workshops and lectures regarding the plan, for all sectors, in the capital and other regions.
4. Incorporate the principles of the plan into the periodical reports submitted by the State to international committees concerned with following up on human rights issues.
5. Translate the plan into other languages to share the Lebanese experience and allow Lebanon to benefit from valuable observations or suggestions when drafting complementary or new national plans in the future.

## **II- Issues and general executive measures**

National constitutions and laws around the world are based upon the social, cultural and ideological sources of states and societies. However, the international human rights principles and standards aiming at creating a unified universal human rights policy should be inspired by an essential and binding source. Those international human rights standards can derive from international conventions, protocols, declarations and recommendations issued by the United Nations, its specialized agencies, the League of Arab States, the European Union and other regional and international organizations.

The duty of the State, in this area, is not only limited to referring to or ratifying international conventions. But it is to exert every effort to amend, or repeal any national legislation, issue a new one in line with the international conventions ratified by Lebanon, and ensure efficient and comprehensive implementation of international law. It is also the duty of the State to allocate the resources needed to ensure proper implementation of the plan in cooperation and coordination with both the public and private sectors. Therefore, it is necessary to have decrees and decisions issued. Subsequently, it becomes the duty of the state's executive and judicial organs, and the people in general, to respect the provisions of the decrees and decisions issued.

### **1- Human Rights in the Lebanese Constitution**

The Lebanese Constitution dedicates a full chapter to the rights and duties of Lebanese nationals (Title 1, Chapter 2). Articles (7) to (15) therein provide for the state's protection of a number of individual fundamental rights and freedoms. Those are as follows:

equal rights and duties before the law (article 7), equality before the law in rights and duties (article 7), individual freedom (article 8), freedom of belief and religion (article 9), freedom of education (article 10), freedom of verbal and written expression, freedom of holding meetings and freedom of association (article 13), inviolability of domicile (article 14), and protection of individual property (article 15). These articles under the chapter of the rights and duties of Lebanese nationals are considered as a bill of rights and provisions of constitutional value.<sup>1</sup>

Additionally, human rights are protected, explicitly or otherwise, in the Lebanese Constitution, effective laws, decrees or decisions. The legislative scope has witnessed a significant improvement thanks to the amendment of the Constitution on 21/9/1990. The amendment added a preamble to the Constitution, and paragraph (b) therein states:

“Lebanon is Arab in its identity and in its affiliation. It is a founding and active member of the League of Arab States and abides by its pacts and covenants. Lebanon is also a founding and active member of the United Nations Organization and abides by its covenants and by the Universal Declaration of Human Rights. The government shall embody these principles in all fields and areas without exception.”

The above provision is particularly important because it explicitly gives the conventions referred to full constitutional force. The Constitutional Council supported this principle in a preliminary decision that stated: “Since the principles provided for in the preamble of the Constitution are deemed as an integral part thereof, they have a constitutional value such as the constitutional provisions themselves”.

Lebanon’s commitment to international conventions, notably the Universal Declaration of Human Rights, is explicitly a historic achievement, although the Constitution itself is nothing but recent. Its commitment places Lebanon on the map of global efforts supported by the UN, aiming at enhancing human rights and public freedoms in all countries and their legal systems and ensuring that everyone’s rights and freedoms, without any discrimination, are truly recognized and protected. More importantly, Lebanon remains, in this context, accountable to the international community.<sup>2</sup>

Paragraph (c) of the preamble, states that:

“Lebanon is a parliamentary democratic republic based on respect for public liberties, especially the freedom of opinions and belief, and respect for social justice and equality of rights and duties among all citizens without discrimination.”

## **2-The Lebanese institutional framework for the promotion of human rights**

The Lebanese state has taken several measures and initiatives aiming at achieving a

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1 Lebanon’s National Report- Universal Periodic Review.

2 The Constitutional Council, Decision no. 2, dated 12/9/1997, Official Gazette, Issue no. 44, p. 3202.

better protection of human rights. Some of these are institutional, while others are legislative. They are as follows:

**a. Independent, fair and efficient judiciary**

The judiciary is the first and foremost institution whose mandate is to protect and promote human rights. Due to the importance of this constitutional authority, and given that recourse to courts is a fundamental human right, the plan dedicates a special section to the judiciary, among other sectorial priorities.

**b. Ombudsman**

The Ombudsman's office is an independent public office that settles disputes and investigates complaints of the state administrative departments. It is an independent body who could also look into disputes or violations involving human rights. On 11/12/2004, a special law was issued to establish the Ombudsman's office in Lebanon, but this law is still not effective.

**c. Parliamentary Human Rights Committee**

The Parliamentary Human Rights Committee is part of the Lebanese Parliament. It performs legislative and supervisory duties. It also studies the draft laws that the government and MPs submit to its members. Furthermore, it prepares reports and proposals for the promotion of human rights.

**d. Draft law for the establishment of the National Institution for Human Rights**

MPs Michel Moussa and Ghassan Moukhaiber submitted, in November 2011, a draft law for the establishment of a national institution for human rights, in line with the Paris Principles. This institution would have a national supervisory committee to prevent torture in accordance with the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT).

**e. Inexistence of any entity within the procedural authority that is specific to human rights**

Neither the Council of Ministers nor any ministry or executive bodies have one focal point to ensure the incorporation of human rights standards into the policies and draft legislation of the Council of Ministers and other public administrations in Lebanon.

**f. Miscellaneous institutions**

With regard to the Ministry of Justice's structure, the Ministry prepared and proposed a draft law to create a directorate general for human rights. The Directorate General of Internal Security Forces has also created a department for human rights at the Inspectorate General. Additionally, a committee of internal security officers was formed for strategic planning and human rights issues.

Furthermore, the National Commission for Lebanese Women was established in 1995, pursuant to the decisions of the Fourth World Conference on Women in Beijing. In 1994, the Higher Council for Childhood, and the National Committee for the Disabled were established within the Ministry of Social Affairs.

### **3- Lebanon international obligations**

In 1948, Lebanon participated in drafting the Universal Declaration of Human Rights, represented by the late diplomat Dr. Charles Malik. Legislators in Lebanon incorporated, in the Lebanese Code of Civil Procedure, an article by virtue of which the provisions of international treaties prevail over the provisions of the national law, in case of conflict of provisions. Article 2 of this Code states the following:

“Courts shall abide by the principle of hierarchy of norms. In the case of conflict between the provisions of international treaties and those of local laws, the first shall prevail. Courts are not allowed to invalidate the acts of the legislative authority for non-conformity of local laws to the Constitution or international treaties”.

Lebanon is committed to the International Bill of Human Rights, including the Universal Declaration of Human Rights of 1948 and the two special international covenants. It, in fact, participated in the drafting of the Declaration represented by Dr. Charles Malek. Furthermore, Lebanon ratified a large number of special agreements on human rights. (See the list of those conventions in Annex 2).

There are, however, other treaties and optional protocols that have not been ratified by Lebanon yet. These are referred to in the sectorial themes of this plan and are particularly represented as recommendations.

### **4- Lebanon’s commitment to the Millennium Development Goals (MDGs)**

In September 2000, the UN General Assembly adopted the Millennium Declaration. This declaration was then ratified by 191 states including Lebanon. Those states undertook to achieve 8 goals, 21 objectives and 58 indicators by the year 2015. Those include reducing poverty, eradicating hunger, providing education for all, promoting gender equality, improving health care for mothers and children, preventing the spread of contagious diseases, protecting the environment and promoting global development partnerships. The declaration also included commitments to security and peace, the promotion of human rights, democracy and good governance, and the protection of vulnerable groups. Lebanon, like other countries, has suffered, and still suffers from adverse effects of the climate change, the food crisis, the consequences of the financial crisis, and some globalization aspects which have widened the gap between the rich and the poor around the world. Signing the Millennium Declaration is Lebanon’s acknowledgement of the necessity to pursue the Millennium Development Goals (MDGs) like other countries. The government submitted its second MDG progress report during the first half of

2008 in cooperation with the United Nations Development Programme (UNDP). The report evaluated Lebanon progress toward the MDGs achievement, based on new national data created after the first MDG progress report was submitted in 2003.

Underlining the concerted efforts exerted to achieve the required goals, the report focused on main challenges and opportunities. It also suggested recommendations to decision makers and other stakeholders concerned with MDGs. One of the main recommendations was the use of the MDG achievement process as an opportunity for the promotion of dialogue on development related key issues.

### **5- Cooperation with international and regional human rights bodies**

In cooperation with human rights bodies, Lebanon is host to the Regional Office for the Middle East of the Office of the High Commissioner for Human Rights. Lebanon also offered an open invitation to all special rapporteurs and persons in charge of human right matters<sup>3</sup>. Recently, Lebanon received a number of rapporteurs, including the Special Rapporteur on the human rights aspect of trafficking victims, especially women and children, Ms. Sigma Huda, who visited Lebanon in February 2005. It also received the Commission of Inquiry on Lebanon, which visited the country upon the decision of the Human Rights Council at its second special session, held on 11/8/2006. The purpose of the visits was to discuss “the grave situation of human rights in Lebanon caused by Israeli military operations”. In addition, Lebanon received, between 24/5/2010 and 2/6/2010, the Subcommittee on the Prevention of Torture, and gave it full access to detention facilities it chose to visit. In October 2011, Lebanon received the UN Special Rapporteur on contemporary forms of slavery, Ms. Gulnara Shahinian. In April 2012, it received the UN Special Rapporteur on the situation of human rights defenders.

### **6- Submission of official periodical reports to contractual bodies**

By virtue of human rights treaties signed, Lebanon should submit periodical reports stating the provisions and measures that it has adopted to promote, respect and protect human rights. Each special committee, formed under the provisions of the relevant international treaty, studies the report submitted by Lebanon, thoroughly. Then, it calls for a meeting with the government’s delegation to discuss and examine objectively all legislative and administrative measures taken, and to assess the government’s allocated resources and efforts to this end. When studying the government’s report, the special committee also takes into consideration shadow reports, if any, issued by civil society organizations and non-governmental human rights associations. Furthermore, it considers the viewpoint of international organizations operating in the country or the region for a comprehensive picture of the situation. Then, the committee discusses with the delegation the pros and cons of the report before issuing its own report with observations and recommendations for improvement. The committee also draws the government’s attention to what is

needed to be done at all levels. The government is hence expected to address and submit the same in the upcoming progress periodical report. Moreover, the special committee cooperates with international and regional organizations, so that they assist the government to reach its desired goals. It lists also general comments to help the Lebanese and other governments interpret the provisions and goals of the applicable convention, so that all countries understand better the intention of the latter from a legal perspective.

By virtue of international treaties, Lebanon undertook to submit its periodical reports to the committees of the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women. Nevertheless, the government fails sometimes to submit the required periodical reports. Some of these have not actually been submitted for years now (see the list of these reports in Annex 2). Particular reference is made here to the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. In addition to the lack of determination and political will to evaluate the performance of human rights in Lebanon, this delay in submitting reports is due to the absence of a focal point interagency responsible for preparing periodical reports, especially that it also requires the collection and integration of information from numerous government agencies and different administrations. For others, the delay is attributed to the fact that the preparation and submission of periodical reports are not considered a high priority for the State. Besides, there is a shortage of skilled and qualified personnel to prepare the reports as required by the concerned international committees. The competent authorities are currently working on these reports to confirm Lebanon's commitment to obligations arising from conventions it acceded to.

Whatever the case, the failure to submit periodical reports in due time is a violation of the agenda of pre-defined international committees. In addition, Lebanon would be deprived of any international supervision. Hence, it cannot benefit from global experiences which could help it improve the protection and promotion of human rights although it has willingly and voluntarily agreed to adhere to such conventions, and benefit from recommendations and observations of higher competent authorities.

## **7- Submission of national reports<sup>4</sup> to the Human Rights Council in the course of the Universal Periodic Review for Lebanon**

Upon a UN General Assembly decision, the Human Rights Council (HRC), the successor of the UN Commission on Human Rights, adopted the method of reviewing the human rights situation in all countries of the world, without exception. The review

is contained in a report, openly discussed by all the members of the Council, on the basis of the official report submitted by the State under review. In this process, due attention is given to shadow reports submitted by civil society organizations. Then, the report is referred to a tripartite expert committee. That committee will study the report in light of the discussions. It then presents its observations and recommendations to all members of the HRC to take the appropriate decision after noting the viewpoint of the concerned State. Once ready, the comprehensive report is final. This means the concerned state is bound to implement the recommendations therein in relation to human rights, to exert necessary efforts and take necessary measures to protect and promote human rights.

The Universal Periodic Review Report for Lebanon was reviewed during the 15th Session of the Human Rights Council held on 10/11/2010. Lebanon's delegation was headed by Ambassador William Habib, the General Secretary of the Lebanese Ministry of Foreign Affairs. The working group responsible for the Universal Periodic Review adopted Lebanon's report in its session held on 12/11/2010. Thereafter, Lebanon approved a large number of recommendations and rejected some others.<sup>5</sup> Lebanon's report will be reviewed again before the Human Rights Council in 2015, during the Council's 23<sup>rd</sup> session of the second cycle.

## **8- Regional Covenants**

On 8/5/2011, Lebanon ratified the Arab Charter on Human Rights as adopted by the Arab Summit in May 2004.

Article (43) of the Charter states that:

"Nothing in this Charter may be construed or interpreted as impairing the rights and freedoms protected by the domestic laws of the state's parties or those set forth in the international or regional human rights instruments which the state's parties have adopted or ratified, including the rights of women, the rights of children, and the rights of minorities".



## General Executive Measures \*

### 1- The Parliament

- a. Taking the necessary measures, for Lebanon to adhere to international conventions and protocols other than those it has already ratified, and implement them through necessary laws, decrees, decisions and administrative practices as soon as possible. These conventions have been referred to in the sectorial themes of this plan. (ST)\*\*
- b. Create the Independent National Institution for Human Rights in accordance with the Paris Principles. (ST)

### 2- The Council of Ministers and public administrations

- a. Draft and present periodical progress reports on the situation of human rights in Lebanon, in accordance with the provisions of all covenants and treaties requiring these reports. Also draft reports that are long due and have not been prepared yet, and submit them as soon as possible. Comply with this process in the future and submit reports within the timelines specified in relevant conventions. (ST)
- b. Adopt an efficient national system to coordinate, draft and submit progress reports to treaties and Universal Periodic Review committees. (ST)
- c. Appoint an Ombudsman in accordance with the law dated 11/12/2004. Allocate human and financial resources to the Ombudsman's office. (ST)
- d. Designate one of the Ministers of State to be responsible for defending, protecting, promoting and incorporating human rights in procedural policies. That minister shall also be responsible for following up on the National Action Plan for Human Rights with the Council of Ministers and public administrations. (ST)
- e. Develop necessary skills and capacities to strengthen Lebanon ability to meet its international obligations with regard to human rights, including requesting international cooperation for assistance. (ST)
- f. Develop, under the auspices of the League of Arab States, executive procedures to follow up on and implement the Arab Charter, more specifically, to establish the Charter Committee and create an Arab Human Rights Court. (ST)
- g. Spread the culture of human rights at all levels and by all means, particularly with other public administrations, security agencies and the people. Incorporate human rights into academic curriculums, and reinforce the role of media and local associations in spreading the human rights culture. (ST)
- h. Develop relations with the Regional Office of the High Commissioner for Human Rights (OHCHR), by signing a headquarters agreement with that office to enhance its local and regional presence. (ST)

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\* To refer to the term needed for implementation, (ST) will be used to refer to the short term and (MT) will be used to refer to the medium term.

\*\* A recommendation that Lebanon approved during the Universal Periodic Review at the UN Human Rights Council in its 15th session held on 10/11/2012. Reference to those recommendations will be hereafter made by placing an asterisk between two brackets (\*).

## Chapter (2): Sectorial Themes

### 1. THE INDEPENDENCE OF THE JUDICIARY

The independence of the judiciary is one of the most important principles for the protection of human rights. It is supposed to be the last resort and the best guarantee for the fulfillment of rights. It is also the best remedy to achieve justice among those who are civilly or criminally oppressed, in the face of other persons or the state itself. The judiciary is thus the most effective and impartial body that is responsible for supervising investigation procedures, including arrest, detention and humane treatment. It guarantees the rights to a fair trial without discrimination, including the rights to defense, appeal and cassation as defined by the International Bill of Human Rights. Without an independent judiciary, there is no democracy. The judiciary represents, indeed, justice and builds it upon legal rules, away from the conflict of authority and its various effects. Without a judiciary that is the only reference to interpret and implement the law impartially and according to objective criteria and standards, there would be no state of law.

#### **First: The legal situation**

##### **1- International standards**

There are several international conventions, declarations and recommendations that aim to strengthen the basic principles pertaining to the independence of the judiciary, and to put in place procedures needed to implement such principles successfully and effectively. These international instruments define also the role of lawyers and public prosecutions, on the premise that an independent judiciary is the foundation for the protection of public freedoms and human rights, and supports any country efforts towards development, democracy and comprehensive reform.

We mention on this note the International Covenant on Civil and Political Rights. This covenant defines the standards for the independent judiciary that is the authority responsible for guaranteeing rights and achieving justice. There were also conferences held in Beirut, in 1999, and Cairo, in 2003, to promote and strengthen the independence of the judiciary. In their respective provisions on the independence of the judiciary, international charters address the personal, discretionary and institutional independence of judges. They also clearly define the competence of courts in making and revising judgments. Additionally, these provisions secure necessary resources for judges, and ensure appropriate and continuous training. They guarantee permanent mandates, the fair and effective implementation of legal provisions and the judges' freedom of expression and association. They define criteria required for the selection of judges in an objective and transparent way, and recommend the development of a just, transparent and effective disciplinary system as well as a code of conduct for judges. They also require that judges file financial disclosure statements and that high standards of judicial conduct be adopted. Last but not least, they provide for the management of proceedings, trials and judicial procedures objectively and transparently, and grant access to both judges and the public to legal and judicial information.

## 2- National legislation

### a. The Lebanese Constitution

Paragraph (e) of the Preamble and articles 19, 20<sup>6</sup> and 80 of the Lebanese Constitution observe the separation, balance and cooperation of all branches of the government. They also provide necessary guarantees for judges and litigants; provide for the independence of judges and the issuance of decisions and judgments by courts in the name of the Lebanese people.

In addition, the Constitution, by virtue of the Constitutional Law no. (18) dated 21/9/1990, provides for the establishment of a Constitutional Council to supervise the constitutionality of laws and to arbitrate conflicts that arise from parliamentary and presidential elections. It grants specified persons only, other than individuals, the right to consult this council.

The Constitution also provides for the establishment of a Supreme Council whose function is to try presidents and ministers. The Council consists of seven MPs elected by the Parliament and eight highest-ranking judges. The decisions of condemnation by the Supreme Council shall be rendered by a majority of ten votes.

### b. Laws and ordinary regulations

The principle of the independence of the judiciary is confirmed in several laws, notably, the Code of Civil Procedure (article 1) and the Judicial Jurisdiction Law (articles 3, 4 and 44).

## Second: The current situation

### 1 – The situation of institutions

Lebanese courts of various levels and jurisdictions fail to assume their responsibilities duly and properly. Such failure is detailed below:

#### a. The Constitutional Council

Article (19) of the Constitution states the following:

“A Constitutional Council shall be established to supervise the constitutionality of laws and to arbitrate conflicts that arise from parliamentary and presidential elections. The President, the Speaker of the Parliament, the Prime Minister, along with any ten members of Parliament, have the right to consult this Council on matters that relate to the constitutionality of laws. The officially recognized heads of religious communities have the right to consult this Council only on laws relating to personal status, the freedom of belief and religious practice, and the freedom of religious education”.

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6 Judicial power shall be exercised by the tribunals of various levels and jurisdictions. It shall function within the limits of an order established by Law and offering accordingly the necessary guarantees to judges and litigants. The limits and conditions for the protection of the judges shall be fixed by Law. The judges shall be independent in the exercise of their duties. The decisions and judgments of all courts shall be rendered and executed in the name of the Lebanese People.

The Constitutional Council complied with these provisions in a number of decisions it issued. However, its performance is still defective, as mentioned below:

- The right to consult the Council is exclusively granted to some persons. Therefore, the number of consultations of the Council has significantly decreased since 2000.<sup>7</sup>
- The Constitutional Council arbitrates conflicts arising from elections and looks into requests to abrogate laws only. It does not have the authority to refer to the interpretations of the Constitution (though already provided in The Taif Agreement) nor can it object to the non-constitutionality of a given law (though provided in article (2) of the Code of Civil Procedure before it was amended).
- After the first Constitutional Council issued a number of decisions abrogating some laws and electoral processes, its authority was further constrained, and its duties lacked transparency. The Council Law was amended in such a way to prohibit the registration and publication of violations. In addition, the rules and regulations for the appointment of the members of the Council were amended. By virtue of such amendment, the legislative power was given the right to interfere and appoint the Council's members.<sup>8</sup>

#### **b. The State Council**

Although the performance of this judicial body seems positive based on the fact that citizens interact well with public administrations, the question to be asked is about the extent to which it is politicized (e.g. the decision to compensate political influencers for the closure of quarries). Another question relates to whether or not there are guarantees for fair trials before this body, since it adopts one degree of trials only.

#### **c. The Justice Council**

The Justice Council's mandate derives from the referral decree issued by the government, and the investigator is appointed by a decision of the Ministry of Justice. Reality shows that political authority interferes with the work of this Council; whether it relates to opening or transferring a file to the Council. In addition, it plays the role of an extraordinary tribunal. Since the decisions of the Council are not subject to review, they have recently been subject to objection and retrial within restricted limits and conditions.

#### **d. The Cassation Court**

The Cassation Court has narrowed down the concept of 'serious error', hampering thereby one of the forms of judicial review. In addition, the Cassation Court's right to object to a sectarian or religious decision that is applicable by virtue of article (95) of the Code of Civil Procedure has only been restricted to the violation of jurisdiction or public order. It no longer encompasses violations of the law, which keeps personal status courts free of any judicial control.

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7 For example, the Constitutional Council has not been consulted to abrogate any law for any reason since 2000.

8 As of 2005, the Constitutional Council has not been consulted for any constitutional breach.

#### **e. Special courts**

Pursuant to the law, civilians can be tried before military courts which fail to grant the required judicial guarantees or justify their decisions. Accordingly, such courts remain out the scope of greater control over the judiciary. In addition, some special courts, such as the Court of Publications, enjoy powers that should be subject to the control of ordinary penal courts, whose judgments and decisions are subject to appeal.

#### **f. Sectarian judiciary**

This is a special and independent judicial sector and does not apply fair trial criteria as commonly known. It is also not subject to any form of true control, since the Court of Cassation controls only the violations of jurisdiction or public order.

### **Third: Guarantees and rights**

1. The independence of the judiciary is based on three principles: 1) a political will that believes in the independence of judges as a prerequisite for justice, 2) a law that makes judges comfortable and prevents interference in their work, and 3) judges who believe in their own independence.

#### **a. Guarantees for judges**

The standards and principles adopted in managing the judicial system, particularly in terms of formation, transfer and promotion, fail to protect judges from the interference of the executive power. They further fail to provide them with the necessary conditions for their immunity.

Ordinary laws providing for judiciary independence are still theoretical. In fact, the judiciary is still subject to the executive authority in terms of the formation of its bodies and the appointment, transfer and promotion of its members. Even if such formation falls within the competence of the Higher Judicial Council and is deemed final and binding with the majority of seven member voters, it still pends the approval of the Ministry of Justice. While freely conceding that former justice ministers have never interfered in these matters and simply referred such decisions to the Council of Ministers without any change, these matters are still undeniably subject to the approval of the executive power. Furthermore, the Lebanese Constitution provides for the independence of the judiciary. However, it refers the question of the guarantees given to judges and litigants to ordinary laws that were enacted even before the establishment of the Constitutional Council, i.e. before the implementation of constitutional oversight. But even after the establishment of the Constitutional Council which first issued a decision related to the abrogation of laws contradicting the principle of the judiciary independence, the non-constitutionality of laws was not challenged. Accordingly, some of the laws were inconsistent with the principles provided for in the Constitution.

### **b. Guarantees for litigants:**

Transparency, jurisprudence oversight and practical debate are forms of control over the judiciary, and thereby guarantees to litigants. In practice, however, the discretionary powers of the courts obstruct the means of opposition of judicial work in terms of refutability, removal, casting legitimate doubts or questioning the responsibility of the State for the acts of its judges.

In addition, the right to proclaim a judge “unqualified” granted by the Higher Judicial Council by article (95) of the Judicial Regulatory Law has never been exercised, not even once.

### **c. Heavy caseloads and delays**

Courts suffer from heavy caseloads due to the slow processing of claims by some judicial authorities, causing lots of delays. Even after a judgment is passed, and when it should be executed by competent executive departments, justice is always obstructed.

## **2- Executive measures**

The existence of an independent judiciary is the main foundation of democracy, based on the separation of powers. The judicial power, in the modern sense of the word, is the main element that balances and acts as a reference for the legislative and executive powers. Thus, the constitutional system controls the legislative power, while the administrative system controls the executive power. The judicial system, with all its departments, protects freedoms and guarantees the rights of individuals in terms of their relationships with one another and their relationships with the political authorities.

## **3- The Parliament**

- a. Create a higher independent judicial commission for strengthening and representing the independence of the judicial power. (ST)
- b. Limit the jurisdiction of the Military Courts to cases of servicemen’s disciplinary issues, thus excluding civilians. (ST)
- c. Abolish the Judicial Council or, at least, subdivide it into two degrees of adjudication. (ST)
- d. Enhance the powers, independence and efficiency of the Constitutional Council, particularly by expanding its right to review cases, ensuring public adjudication and transparent implementation of the rules, and objecting to the non-constitutionality of laws before ordinary courts. (MT)
- e. Reinforce the principle of the irremovable nature of judges, except with their own consent, particularly with regard to sensitive judicial positions concerning the protection of individuals and their rights. (ST)
- f. Expand the scope of review that aims at holding the State accountable for the actions of its judges. (MT)
- g. Abolish fees and financial charges in adjudication. (ST)

#### **4- The Council of Ministers and public administrations**

- a. Reinforce and develop a system for inspecting and controlling judges' actions. (ST)
- b. Protect judges from physical and moral harm. Apply stricter measures to any form of interference with the judicial power. (ST)
- c. Make no objection to the creation of a professional body for the judiciary (an association or a syndicate) to protect the rights, independence and demands of judges, and exercise some sort of protection from political interferences. (MT)
- d. Expand the scope of understanding the principles of 'capacity' and 'interest in disputes' stipulated in the Code of Criminal Procedure to allow MPs and human rights organizations to file complaints before the public prosecution. (MT)
- e. Support judicial assistance programmes by allocating necessary funds to be disbursed, whenever necessary, by official bodies, the bar associations of Beirut and Tripoli as well as by human rights organizations. (MT)

## 2. THE PRINCIPLES OF INVESTIGATION AND DETENTION

Opinions are split regarding the Code of Criminal Procedure. Some support security at the expense of public freedoms and human rights, while others struggle to protect these rights and freedoms, whatever the reason may be.

Supporters base their claims on the premise that the provision of security requires granting broad powers to those bodies that undertake investigations and prosecute criminals, even if this occurs at the expense of public freedoms and fundamental human rights.

Opponents seek to guarantee human rights and freedoms while maintaining security to protect the public order.

### First: The legal situation

#### 1- International standards

International instruments of human rights grant special attention to human rights in the field of criminal justice. Several international conventions, recommendations and protocols have been issued to strike a balance between the role of authorities in preserving security, while safeguarding the rights and freedoms of individuals who are under investigation or criminally prosecuted, no matter what circumstances may be.

In addition, several principles and rules have been specifically issued to protect the work of judges, lawyers, law enforcement officers, the treatment of detainees and prisoners, and the use of force and fire arms.

These rules and principles aim at striking a perfect balance between the protection of security, the prevalence of the rule of law and the protection of the rights, safety and security of lawbreakers throughout the entire criminal procedure, starting from investigation and detention until the last phase of adjudication. These rules and principles state the following:

- a. The equality of all should be maintained before the law. Persons have the right to a fair trial before an open and independent court, and are presumed innocent until otherwise proven guilty. The accused shall be notified of all charges brought against them and given adequate time to prepare for their defense. They have the right to be present at their own trial without delay, and shall not be coerced or persuaded to testify against themselves<sup>9</sup>. A person holds the right to appeal and may not be retried for the same charges twice (the double jeopardy doctrine).
- b. Individuals appointed to work at the public prosecution office should be efficient, honest and capable. They must fulfill their duties fairly and quickly, in accordance with the law but not at the cost of human dignity. They must also be impartial, seek public interest and refrain from prosecuting anyone on the basis of a groundless charge.<sup>10</sup>

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9 From the International Convention on Civil and Political Rights.

10 Guidelines for Public Prosecutions adopted by the Eighth UN Congress on the Prevention of Crime and Treatment of Offenders, Havana 7/9/1990.



- c. The full protection of human rights and fundamental freedoms of all persons requires granting all people access to legal aid from independent legal professionals.<sup>11</sup> Every prosecuted person must have access to lawyer assistance, and may not be detained except by an order from the judicial authority.<sup>12</sup>
- d. The work of law enforcement officers should be reconciled with the protection of human rights mainly during interrogation; and officers should refrain from the use of force or torture.<sup>13</sup>
- e. Rules that govern the exercise of judicial duties must enable judges to act on such principles and must underline that judges are required to take the final decision on a person's life, freedoms, rights, obligations and properties.<sup>14</sup>

## 2- National legislation

Lebanon adhered to a number of international treaties, such as the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and incorporated the provisions of such conventions in its local laws, decrees and practical procedures to strengthen the principles of respect of human rights and public and private fundamental freedoms.

Hence, the Code of Criminal Procedure regulates detention, inspection and investigation along with the authorities in charge of the same, including law enforcement officers and courts. It defines those cases where a person can be deprived of his freedom during preliminary and judicial investigations. It grants both the public prosecution officer and the investigating judge the power to detain persons suspected of committing criminal acts. It also defines the conditions that need to be met to allow the detention or arrest of such persons.

The law grants the investigative judge the authority to issue writs of summons and arrest warrants for provisionally prosecuted persons, release detainees and take other decisions than preventive detention.

In this context, after the new Code of Criminal Procedure was passed by the Parliament; the President, pursuant to article (57) of the Constitution, requested a revision of a number of articles of the Code. Some presidential remarks were adopted; others were declined. Subsequently, the new code entered into force on 7/8/2001. However, on 8/8/2001, some security incidents led to the detention of dozens of political opponents. Accordingly, the Parliament proposed a draft law which endorsed the presidential remarks rejected by the majority of the Parliament. The new draft law was adopted on 13/8/2001.

11 Basic Principles on the Role of Lawyers, adopted in the Eighth UN Congress on the Prevention of Crime and Treatment of Offenders, Havana 7/9/1990.

12 Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, adopted by UN Resolution no. (173/43) on 9/12/1988.

13 Code of Conduct for Law Enforcement Officers (34/169) dated 17/1/1979

14 UN Basic Principles on the Independence of the Judiciary, adopted by UN General Assembly Resolutions no. (32/40), 29/1/1985, and (146/40), 13/12/1985.

## **Second: The current situation**

There is no doubt that the State made a positive achievement by approving the new Code of Criminal Procedure that takes into consideration most of the international principles on investigation and detention. The country is, therefore, on the right track towards the protection of fundamental human rights and public freedoms through criminal procedures.

In practice, however, there are still some breaches of laws and regulations. The judicial police, for example, reports to the judiciary despite the fact that, in many cases, it appears that such a judicial control is not required.

Furthermore, the law failed to clearly define the conditions of employment and academic qualifications of the judicial police candidates.

## **Third: Executive measures**

### **1- The Parliament**

- a. Amend the Code of Criminal Procedure so as to allow for the presence of a lawyer during the interrogation of a suspect or respondent before judicial police officers. (ST)
- b. Amend article (108) of the Code of Criminal Procedure so as to set a maximum limit for the period of detention in currently exempted crimes: drugs, crimes against state security, universal threat offenses and repeat offenders. (ST)
- c. Enact a special law for the regulation of the judicial police officers rules and conditions for their selection and appointment, and special training sessions for them. (MT)

### **2- The Council of Ministers and public administrations**

- a. Develop necessary procedures, rules and conditions to give defendants or respondents notifications of claims filed against them in accordance with article (147) of the Code of Criminal Procedure. (ST)
- b. Equip police stations and other places where suspects are interrogated by the judicial police officers or assistants with fax machines to improve communication with competent public prosecution offices. (ST)
- c. Abolish the concept of 'Portable Warrant', which is not based on any legal provision, and ensure the sound application of the rules and conditions related to the use of search and investigation warrants. (ST)

### **3- The judiciary**

Be strict in the application of the rules and conditions for fact finding and investigation purposes, particularly in reference to article (47) on the rights of detainees and article (107) on the rules and conditions of issuing and justifying detention warrants. (ST)

### 3. TORTURE AND INHUMAN TREATMENT

Torture, inhuman, cruel and degrading treatment are among the worst violations of human rights. Such forms of treatment are perpetrated against prisoners or detainees who are deprived of their freedom by the authority<sup>15</sup> and find themselves helpless in the custody of police or security officers, or in prisons, where they simply cannot escape. This treatment can be used to punish victims or for the purpose of revenge. It can also be used to force them to confess violations or offenses committed by them or other persons. For this reason, the international community has taken every measure possible to prevent such practice, and to protect the physical and mental health of detainees.

#### First: The Legal situation

##### 1- International standards

The international community has condemned torture as a violation of fundamental human rights. Several conventions, declarations, recommendations and protocols prohibit torture, cruel, inhuman or degrading treatment. These include:

- a. The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, entered into force on 26/6/1987. Lebanon adhered to this convention in 2000. In article (17), the Convention provides for the establishment of a committee against torture with the mandate of monitoring member states' compliance. According to article (20), if the committee receives reliable information which appears to contain well-founded indications that torture is being systematically practiced in the territory of a State Party, the committee shall invite that State Party to cooperate in the examination of the information, and to this end, to submit observations with regard to the information concerned. Article (21) of the Convention states that a State Party may, at any time, as long as it recognizes the jurisdiction of the committee according to article 17, receive and consider communications to the effect that a State Party is not fulfilling its obligations under this Convention. Such communications if submitted by the State Party will be considered according to the procedures laid down in this article.
- b. The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which aims to establish a system of regular visits undertaken by independent international and national bodies to places where people are deprived of their liberty, in order to prevent torture and other cruel, inhuman or degrading treatment or punishment. Lebanon adhered to the protocol in 2008.

In addition, the United Nations issued a number of other important standards, though not legally enforceable. Major standards are:

- The First Congress on Crime Prevention and Treatment of Offenders (Geneva 1955), which recommended the adoption of the standard Minimum Rules for the Treatment of Prisoners and the prohibition of cruel, inhuman or degrading punishments.

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15 State or non-state armed actors.

- UN General Assembly Resolution no. (43/173) dated 9/12/1988 issued by virtue of the Body of Principles for the Protection of All Persons under any Form of Detention or Imprisonment.

The international community also adopted a number of instruments that prohibit resorting to torture, whether in prisons or detention facilities. These include the Principles of Medical Ethics relevant to the Role of Health Personnel, particularly Physicians for the Protection of Detained Persons and Prisoners against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

## **2- National legislation**

Although the Penal Code has provisions that define some types of torture, it still does not cover all offenses indicated in article (1) of the Convention against Torture. The Ministry of Justice has exerted some efforts to revise and amend the Penal Code to be in conformity with the Convention. It requested the introduction of a definition of “torture” and the definition of sanctioning procedures against perpetrators.

The Lebanese Penal Code sanctions all acts with the intention to extract a confession of a crime or information related to it with the use of different forms of violence prohibited by the law (article 401), and other forms of cruel, inhuman or degrading punishment, such as infliction of harm (articles 554 to 557), intimidation (articles 573 to 578) and seeking remedy by one’s own means (articles 429 and 430).

The Code of Criminal Procedure also sets forth regulations to prevent torture during preliminary investigations by the judicial police. To this effect, it invalidated the interrogation of witnesses or suspects in case they were coerced to speak during their interrogation. However, the Code does not define nor does it criminalize “torture”.

Parliament Members, Michel Moussa and Ghassan Moukhaiber, have proposed a draft law to establish a permanent committee to prevent torture in agreement with the Protocol. This Committee shall fall under the umbrella of the National Institution for Human Rights.

### **Second: The current situation**

The Lebanese government ratified the Convention by Law no. (185) dated 5/10/2000. It undertook to observe its provisions that have come into force and prevail over the national law. Regrettably, however, the Convention has not been implemented yet, nor was the prescribed preliminary report submitted to the anti-torture committee, in respect of the measures taken for the implementation of the Convention. The submission of that report has been delayed for more than eleven years now (since 2001).

Lebanon also ratified the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) in 2008, and

reaffirmed its commitment to explicitly observing it (article 17 of the Optional Protocol). It agreed to develop a national preventive system to prevent torture in the Universal Periodical Review before the Human Rights Council in November 2010. However, to date, this system still does not exist, although it should have been developed within a year following the date of ratification of the Protocol. Furthermore, no system has been developed to prevent torture through regular visits to prisons and detention facilities in the country. In July 2011, Lebanon received reports from the Anti-Torture Committee. In addition, in 2008, the Lebanese Internal Security Forces (ISF) established a department for human rights and a committee to follow up on cases of torture and cruel treatment at all ISF centers. A major part of the mandate of this department was inspired by the OPCAT. The Directorate General of the ISF also circulated several memos prohibiting harming prisoners and detainees, particularly juveniles, during investigations, subject to legal prosecution or disciplinary measures against memos violators. The Directorate incorporated a human rights course in ISF education and training programmes in order to raise awareness about relevant laws and conventions. It also participated in several workshops on human rights and hung lists of detainees' rights on the walls of a large number of police stations and detention facilities.

Several other decisions were taken by Lebanese courts. Those decisions condemned preliminary investigations and confessions conducted under violence. Other decisions were issued to respect the non-deportation of asylum seekers who entered Lebanon surreptitiously for they feared being tortured in their home countries, as per the Convention against Torture.

Notwithstanding this progress, some official security members and non-state actors do use torture and other forms of cruel, inhuman or degrading treatment. This has been affirmed in several cases, although Lebanon is party to relevant international conventions. Lebanese legislation does not explicitly prohibit torture because torture, as it is internationally recognized, is not mentioned in any of its laws. This contradicts article (1) of the Convention against Torture.

### **Third: Executive measures**

#### **1- The Parliament**

- a. Amend article (401) of the Penal Code to apply harsher sanctions for torture and consider the latter as a crime rather than a misdemeanor by expanding the scope of physical acts that constitute this crime in line with the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT) (\*). (ST)
- b. Introduce new provisions to punish forms of cruel, inhuman or degrading treatment or punishment in line with UNCAT. (ST)
- c. Establish a national system for the prevention of torture. This is an obligation that Lebanon undertook to fulfill in its capacity as one of the signatories of the Optional

Protocol to the UN Convention against Torture (OPCAT) of 2008, particularly, by passing the draft law submitted by the Parliament (\*). (ST)

- d. Amend the Code of Criminal Procedure so as to underline the competence of ordinary (judicial) criminal courts in prosecuting and trying judicial police officers, including military members accused of torture. (ST)
- e. Amend the Code of Criminal Procedure so as to enhance the procedures and guarantees for the appointment of a competent physician allowed to visit and examine people who are deprived of their liberty. (ST)

## **2- The Council of Ministers and public administrations**

- a. Submit periodical reports to the United Nations, particularly the first mandatory report to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT), which was due in 2001, and abide by UNCAT observations and recommendations (\*). (ST)
- b. Implement the recommendation of the Parliamentary Committee of Administration and Justice in terms of selecting highly qualified judicial police officers and assistants, and provide them with specialized training that clearly defines what their duties are during criminal proceedings. (ST)
- c. Abide by the prohibition of extraditing persons to any State that may torture them, in line with article (3) of UNCAT. (ST)
- d. Grant the national body to prevent torture the right to visit prisons and detention facilities and receive complaints on alleged torture. (ST)
- e. Officially recognize the right of the UN Commission against Torture to look into individual complaints related to human rights violations, in accordance with UNCAT article (22). (ST)
- f. Refrain from invoking any statements proven to have been made under torture as evidence in any proceedings whatsoever, unless such invocation is made to attest to the perpetration of torture by an accused person, in line with article (15) of UNCAT. (ST)
- g. Provide special training sessions to persons in charge of conducting preliminary investigations so that they know what their duties are while conducting investigations. Develop technical instruments necessary to prevent torture such as installing surveillance cameras in interrogation rooms. (MT)
- h. Further enhance the capacities of judicial police officers to use all forensic investigation methods to solve crimes and discover the truth without having to rely on the confessions of the accused. (MT)
- i. Disseminate international reports on torture, even if they include Lebanese cases, particularly those reports related to the visits of the UN Committee against Torture. (ST)

## **3- The judiciary**

- a. Stimulate and commence rapid criminal investigations and prosecution in cases of cruel, inhuman or degrading treatment or punishment, in accordance with

article (12) of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. (ST)

- b. Be strict about the observance of all legal guarantees that prevent torture or facilitate the collection of its evidence, including, in particular, the lawyers' right to be present at hearings during interrogation before the judicial police, and expediting the appointment of physicians. (ST)

## 4. FORCED DISAPPEARANCE

One of the cruelest consequences of the 1975-1990 war is Forced disappearance. It inflicted disastrous effects on all people regardless of their religion, sectarian, territorial or partisan affiliations.

According to estimates, over 17,000 persons in Lebanon disappeared, including militants and civilians, Lebanese nationals and non-nationals of different nationalities, mainly Palestinians and Syrians.

In addition to persons forcibly disappeared during the war, reports say state that Lebanese persons were forcibly disappeared by Israel in the wake of its occupation of a part of Lebanon. Other disappearances of Lebanese nationals are reported in Syria, Libya and Iraq. The continuing tragedy and sufferance of forcibly disappeared persons and their families are mainly due to the fact that successive Lebanese governments did not have the decisive political will to consider the file of persons forcibly disappeared as a top priority.

### **First: The legal situation**

#### **1- International standards**

Article (2) of the International Convention for the Protection of All Persons from Enforced Disappearance (ICCPED), enacted by the UN General Assembly on 20/12/2006, defines enforced disappearance as: "the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law."

It also states that "each State Party shall take appropriate measures to investigate acts defined in article 2 committed by persons or groups of persons acting without the authorization, support or acquiescence of the State and to bring those responsible to justice." The Convention also considered enforced disappearance as a crime against humanity, broadened the scope of its resulting liability, gave it a continuous nature and listed it among those crimes that allow inter-state extradition. Furthermore, it regulated in details the issue of personal information, bookkeeping, access to information and the right to form organizations, associations and societies. It provided for the establishment of a committee on enforced disappearances to which all state parties must submit reports on the measures to be taken in fulfillment of the Convention's obligations.

Article (7) of the Statute of the International Criminal Court states that enforced disappearance is a crime against humanity, particularly if perpetrated systematically.



## 2- National legislation

The amended Lebanese Constitution reinforced the protection of individuals from arbitrary arrest conducted in an illegal manner. Article (8) of Chapter II states that “individual liberty is guaranteed and protected by law. No one may be arrested, imprisoned or kept in custody except in accordance to the provisions of the law. No offense may be established or penalty imposed except by the law.”

The Lebanese Penal Code also criminalized deprivation of personal freedom (Article 569).

### Second: The current situation

Between 1975 and 1990, abductions and enforced disappearances were handled and examined by a leader, an intermediary or influential persons. National organizations protecting citizens were absent. By the end of the military operations in 1990, and with the enactment of the General Amnesty Law in 1991, the file of persons forcibly disappeared remained aside and was not considered by successive governments as a top priority. This was actually the case even though the General Amnesty Law allows the prosecution of perpetrators. In several instances, the Lebanese courts affirmed that abductions were so serious that they couldn't be subject to amnesty nor dropped by lapse of time.<sup>16</sup> In early 2000, the families of persons abducted and forcibly disappeared, with the support of civil society organizations, pressured the government to look into this issue. As a result, the Council of Ministers formed an inquiry committee headed by a security officer. This committee was officially named the Official Committee of Inquiry to Investigate the Fate of the Kidnapped and Missing Persons. The committee submitted its report to the government six months after its establishment. It concluded that there weren't any abductees alive in Lebanon, nor was anyone being held captive by any of the Lebanese parties or factions. The committee recommended that the families of persons abducted and disappeared resort to competent courts to issue official death certificates for those missing persons. Interestingly, the Syrian authorities released, at a later stage, a number of abductees that were proclaimed dead by the commission. This turn of events completely destroyed the credibility of the commission and only encouraged families to make more efforts to resolve the issue of missing persons.

Under the immense pressure of families of missing persons, the Council of Ministers, in 2011, formed another committee, headed by the State Minister for Administrative Development. It was formed to receive complaints from the families of the disappeared. This committee's mission was to receive requests from families who had evidence that their missing persons were still alive. Despite the fact that the committee's mandate was renewed for four additional years, and even though it received more than 700 requests regarding missing persons, it has not submitted a single report to date. The only exception was the announcement of a draft report by the Beirut Bar Association

in April 2005, as it was a member of the aforementioned committee. Since then, a number of MPs have submitted several queries to the government on the file of forcibly disappeared persons. These queries have not been answered yet.

In 2005, after the Syrian army withdrew from Lebanon, the government formed a joint Lebanese-Syrian committee on enforced disappearance, headed by the Beirut Appeal Prosecutor General. The committee received a list of all Lebanese detained in ordinary prisons. It did not, however, receive the list of those in military prisons. All efforts exerted by the Lebanese government regarding enforced disappearance are weak. The government has not taken the necessary measures to close this file. This implies that the State has abandoned its role in protecting its citizens. It has given up its responsibility to submit decisive answers and prevent violations of the Constitution, laws and other relevant international instruments.

Civil society committees concerned with enforced disappearance submitted in April 2009 a memorandum for the establishment of a national committee to handle the issue of missing and forcibly disappeared persons. The memorandum was sent to HE General Michel Sleiman, President of the Republic, HE Mr. Nabih Berri, Speaker of the Parliament, and HE Fouad Siniora, former Prime Minister. The memorandum was adopted by the former Minister of Justice, Dr. Ibrahim Najjar, and former Minister of Interior, Mr. Ziad Baroud. However, this committee has not been formed although the last three governments undertook to ratify the International Convention for the Protection of All Persons from Enforced Disappearance, and to have the national committee mentioned above established. In October 2011, MP Hikmat Deeb submitted a draft law on forcibly disappeared to the secretariat of the Parliament. The draft aims at establishing the National Independent Commission on Forcibly Disappeared Persons. As for the committees that represent families of forcibly disappeared, they prepared a draft law for missing and forcibly disappeared persons in 2012. They submitted a copy of this draft law to the Minister of Justice, Shakib Kortbawi, and a number of ministers and MPs. Kortbawi, in turn, referred to the Council of Ministers a draft decree for the establishment of the National Independent Commission on Forcibly Disappeared Persons. No decision has been made on this matter to date.

### **Third: Executive measures**

#### **1- The Parliament**

- a. Ratify the International Convention for the Protection of All Persons from Enforced Disappearance (ICCPED), signed by Lebanon on 6/2/2007 (\*). (ST)
- b. Enact legislation to implement ICCPED provisions, particularly with regard to the definition and criminalization of enforced disappearance.(ST)
- c. Establish an independent national committee to investigate the fate of missing persons and the victims of enforced disappearance during the wars that plagued Lebanon (\*). (ST)

## **2- The Council of Ministers and public administrations**

- a. Build a nationwide DNA database and develop necessary techniques for the exhumation of individuals and mass graves (\*). (ST)
- b. Create the national committee to solve the issue of missing persons and victims of enforced disappearance, and develop its capacities until such a commission is mandated with greater legal jurisdiction. (ST)
- c. Develop mandatory rules for the regulation and conditions of protecting and exhuming mass graves and dealing with their content. (ST)
- d. Include the memorial issue in the national culture through school textbooks and at museums and announce April 13th as Memorial Day. (MT)

## **3- The judiciary**

Initiate action in relation to abductions and mass graves, and expedite the issuance of relevant appropriate decisions in this regard. (ST)

## 5. PRISONS AND DETENTION FACILITIES

This section discusses the management of prisons and detention facilities at police stations from the perspective of human rights. However, it sparingly deals with the issues of security control and other necessary measures to prevent prison breaks. These issues are of the highest priority as they are indirectly connected to human rights. Prisons and detention facilities are part of justice achievement. It is in these facilities that convicts are punished for their crimes and serve out their sentences under the watch of security officers. In these facilities, they are isolated because they constitute a significant danger for society. Such facilities also serve as deterrence to potential offenders from perpetrating the same offense. In addition, prisons and detention facilities have emerged as correctional facilities, assisting and rehabilitating prisoners to become upstanding citizens capable of being reintegrated into society upon release.

Cells and detention facilities are the places where suspects or respondents are detained while still under investigation or trial. Putting people in such places is, therefore, exceptional and must be done only under certain defined conditions. These conditions are stipulated in article (107) of the Lebanese Code of Criminal Procedure. They include, for example, the condition that the arrest order shall be reasoned. Provisional detention is acceptable if it is "the only way to preserve evidence or incriminating material traces, to prevent the coercion of witnesses or victims, or to prevent the defendant from communicating with co-perpetrators, accomplices or instigators. It is also permitted if the purpose of the arrest is to protect the defendant himself, to terminate the impact of the offense or to prevent its reoccurrence, to prevent the defendant from absconding or to preclude any breach of public order arising from the offense". The conditions of prisons and detention facilities in Lebanon do not meet the high standards of criminal justice. In consideration of the UN Standard Minimum Rules for the Treatment of Prisoners, prisons in Lebanon are at the moment variably rated as poor, very poor and inhumane. Being served a prison sentence is so horrible to the extent that staying in some Lebanese prisons is a form of torture, and cruel and inhuman treatment. As a deterrence factor, prison conditions create an environment of hate. Convicts hate their jailers, the courts and the society. When they are released, they often seek revenge or recommit the same crime after training and learning more about how to commit it while in prisons. As for the correction and rehabilitation function, it is almost absent in prisons, except for some individual efforts and initiatives taken by a few prison officers and civil society organizations involved in the welfare of prisoners.

The main problems faced by prisons in Lebanon can be summarised as follows:

1. Overcrowded prisons. Prisons affiliated to the Ministry of Interior are overcrowded. They all have over 300% more prisoners than the facilities capacity.<sup>17</sup>
2. Absence of sound punitive treatment and ignorance of rights. The following basic principles are ignored in prisons, in varying degrees: failure to categorize prisoners and provisionally detained appropriately; failure to grant or limit daily access to the outdoors, sunlight and fresh air; inadequate health care; inappropriate personal sanitation environment; lack of educational, social and economic activities; and restricted visits.
3. Non conformity of prisons with social rehabilitation requirements. The physical structure of Lebanese punitive institutions is not in conformity with the requirements of the social rehabilitation of convicts. This is due to the lack of facilities and punitive institutions, and results into unacceptable punitive consequences that do not meet the purposes of social rehabilitation, reintegration and adoption of sound ethical standards. That further adds to the degradation of the human personality, and exacerbates the pain caused by the deprivation of liberty.
4. The increasing number of persons provisionally detained. There has been a huge increase in the number of provisionally detained. In fact, around 40% to 70% (this percentage changes from time to time but it is still high) of prisoners are detained provisionally, and put in jail for mid to long terms, until their trials are concluded. Furthermore, 30,000 cases of provisional detention are registered every year. This indicates that the work of courts is inadequate, due to slow proceedings, excessive detentions, violation of the law sometimes and illegal provisional detentions.
5. Backwardness of legislation. Lebanese punitive legislation, in general, lags behind and is far from rehabilitation goals. It still emphasizes on security and is based on the principle of isolating prisoners. It fails to guarantee prisoners' rights such as the right to go outside, to visits and to correspondences, all of which are important to give the deprivation of liberty a humanitarian feel. In contrast to this, modern punitive legislation follows modern trends of prisoners' treatment, and considers prisoners as social beings who should not be isolated. It also approved punitive drastic reforms aiming at treating prisoners in line with rehabilitation goals. In Lebanon, several provisions in the legislation and the administrative framework are not even in conformity with the Standard Minimum Rules for the Treatment of Prisoners and the requirements of modern prison management and punitive policies.
6. Non conformity of the Lebanese punitive administration with the requirements of modern punitive execution. The Lebanese punitive administration is in fact a military administration that is neither fully committed nor specialized in modern

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17 According to official figures, the maximum capacity of prisons in Lebanon is 3,653 prisoners. Nevertheless, it is necessary to verify their minimum and maximum capacity limits. It is also necessary to check the official figures in order to see whether they are compatible or not with the minimum standards of providing 7 square meter spaces for each prisoner. For example, Roumieh prison has been designed for 1,050 prisoners, but the minimum number of prisoners is 2000 and the maximum number is 3000. Moreover, the prison has not been completed and some of its facilities are being used by the army. That said, the prison capacity is 700 prisoners approximately.

punitive treatment. In addition, it does not have the specialists required for such a treatment, nor does it have significant statistical data (about the number of repeat offenders for instance or numbers of short-term sentence servers). It does not have any data about the social background of prisoners (family status, academic or professional level, etc.). Its role is still restricted to ensuring guards, security, order, keeping files and records of punitive institutions.

The main reasons for the failure to address the causes of human right violations in Lebanese prisons include: the absence of a strong and serious will to reform, the failure to consider the improvement of prison conditions as a priority, and the lack of necessary legislative, judicial, administrative and financial plans and policies to achieve such goals. Recently, policies were adopted to improve prison administration and prisoners' conditions.

The main achievements made in this area are as follows:

1. Agreeing to transfer prison management from the Ministry of Interior to the Ministry of Justice in accordance with the law. This process was supposed to last for 5 years, and should have been completed in 2012.
2. Establishing a new prison for men in Zahle. Necessary funds have been secured to build two central prisons, one in the North and another in the South.
3. Forming a national committee against torture within the Directorate General of Internal Security Forces headed by a brigadier-general.
4. Signing agreements with a number of experts and specialized international bodies to develop special plans and policies to improve prison conditions and management.
5. Forming a committee to define appropriate standards for the construction of prisons in Lebanon. This committee submitted its final report last October.
6. Preparing for the issuing of a Prison Inspection Manual by the Ministry of Justice.
7. Automating the files of prisoners and provisionally detained persons.

Similar developments were observed in the works and projects of civil society organizations, in order to alleviate the sufferance of prisoners, at all levels.

However, this is not enough. Prisoners still suffer. They express their sufferance from time to time by organizing demonstrations, taking part in riots, escaping, or harming themselves. Such acts do not help develop justice, stability, quality or proper management of prisons. The legislative, executive and judicial authorities must take all necessary measures in the short, mid and long terms, in line with the recommendations hereafter. Once such measures are taken, prisons shall be in conformity with the requirements of the standard minimum rules and modern criminal policies. Consequently, prisons wouldn't be a punitive tool only, but they would become justice tools, correctional and rehabilitation facilities for prisoners to easily reintegrate into society.

## Executive measures \*\*

### First: Physical conditions of prisons

- 1- Accelerate the construction of prisons that were approved for funding by the Parliament over all Governorates.
- 2- Accelerate the construction of juvenile punitive institutions as provided for in the law. Those are as follows:
  - a. The correctional institute for female juveniles sentenced to corrective measures for a minimum of six months<sup>18</sup> (there is currently one correctional institute for male juveniles which is the Fanar correctional facility).
  - b. The disciplinary institute for male juveniles sentenced to confinement at the disciplinary institute for a minimum of three months<sup>19</sup> (there is currently one institute for female juveniles which is Al-Mubadara Center for Female Juveniles).
  - c. A prison for female juveniles sentenced to reduced periods of imprisonment for having committed a felony<sup>20</sup> (there is currently one facility for male juveniles, which is a special ward within the juveniles building at Roumieh Prison).
- 3- Shut down all buildings, in all governorates, that are used as prisons and do not meet the minimum standard rules as soon as possible. (In practice, this includes all Lebanese prisons except Roumieh Prison.) Replace these by two new central prisons, one in the North and the other in the South. Renovate Zahle's prison and all other prisons that will be kept in use on a provisional basis. Those buildings should be re-engineered and architecturally redesigned in compliance with the minimum standard rules and should be able to operate following the modern punitive policies.
- 4- Shut down the Ministry of Defense prison in Yarze and the Internal Security Forces Command prison (Sayyar Al-Darak). Abolish the two decrees that provided for their establishment. Replace these facilities with an independent ward in Roumieh Prison for the maximum security protection of prisoners. This ward must also be built according to the technical specifications required to meet the minimum rules.
- 5- Shut down the General Security Detention Facility as soon as possible. Replace it with new detention facilities built and equipped especially for foreign prisoners and detainees who violate travel and immigration laws. (The construction of those facilities have commenced near Roumieh Prison). These facilities must be built according to the specifications required to meet the minimum rules.
- 6- Improve the conditions of currently used prisons until new ones are built. For example, wards of Roumieh Prison which are currently used by the Lebanese Army must be evacuated, rehabilitated and added to the other currently used wards. This will allow for more proper facilities and the transfer of prisoners from prisons where they are subject to inhuman treatment. To that end, a general architectural and administrative master plan for the rehabilitation of Roumieh Prison should be developed and funded either by the public budget or by other national or international financial aids and donations.

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\*\* The majority of these executive measures fall within the responsibility of the government. The majority thereof should be implemented in the short term while the others can be implemented in the middle term.

18 Article (13), Law no. (422), dated 6/6/2002 (Juvenile Protection Law).

19 Article (14), Law no. (422), dated 6/6/2002

20 Article (15), Law no. (422), dated 6/6/2002

- 7- Give special attention to provisional detention facilities at the palaces of justice in Lebanon (by taking into consideration the presumption of innocence of all provisionally detained there). Such facilities should not be overcrowded and should meet all cleanliness and health requirements.

### **Second: Provisionally detained persons**

- 1- Accelerate investigation and trial processes by judges and competent courts. Decrease the number of provisional detention decisions as much as possible and replace them with other alternative legal measures available, whenever possible. Develop alternative executive measures as provided for by article (111) of the Code of Criminal Procedure. In all circumstances, observe properly the provisional detention rules and conditions, namely those in article (107) of the Code of Criminal Procedure.
- 2- Improve the quality of detainees' legal information. Improve the system for legal aid in prisons in order to help detainees in need and expedite their trial or release.
- 3- Develop and regulate the transfer of detainees to the courts at appropriate times without delay. Sufficient measures should be put in place. There should be a proper number of military officers in charge of the transfer. Enough facilities should be made available to receive detainees.
- 4- Ensure the protection of the rights of detainees with the proper implementation of the Code of Criminal Procedure and all other provisions that protect their rights and the presumption of innocence.
  - a. Allow lawyers to visit their clients in accordance with the law and respect the right to private counseling, including the private exchange of documents.
  - b. Develop alternatives to imprisonment in the Penal Code from a practical and executive point of view. For example: public works, fines, payment of additional compensations to victims or their families. Other examples include precautionary measures such as confinement in a precautionary shelter, isolation in a working institution, confinement in a working institution, or freedom limiting measures such as attending training sessions, medical or psychological therapy, and counseling. Other alternatives are conditional release or social monitoring.
  - c. Amend the Electoral Law to create an executive framework that allows provisionally detained people (and convicts enjoying civil rights) the right to vote while in prison.

### **Third: Reduction of imprisonment terms when appropriate**

- 1- Systematically Implement the Law on Execution of Sanctions (Law no. 463/2002). This law provides for the early release of prisoners (an estimated 20% or 25% of the convicts). This process will help reduce prison overcrowding, and will provide a positive incentive for prisoners to correct their behavior, and improve their chances for reintegration into society.
- 2- Amend the Penal Code in several areas, amend and develop the Law on Execution of Sanctions to prevent overcrowded prisons, and pursue the following goals:
  - a. Establish a judiciary institution that would be in charge of the execution of sanctions that deprive freedom and those sub-sanctions or alternative sanctions



imposed by courts (including provisional detention decisions). The institution would also ensure that prisoners are released without delay once they have served their term.

- b. Limit the imprisonment year to less than 12 months (e.g. 9 months).
- c. Set maximum terms of imprisonment for life imprisonment sanctions or allow prisoners to benefit from the Law on Execution of Sanctions in accordance with article (173) of the older Penal Code.
- d. Amend the provisions for drug crimes in such a way to clearly differentiate between drug trafficking and distribution.

#### **Fourth: Classification of prisoners**

- 1- Separate convicted prisoners from provisionally detained persons. It should be noted that the latter should be presumed innocent until a final decision is issued.
- 2- Group prisoners convicted of similar offenses together. Perpetrators of serious crimes such as homicide, rape or theft should be separated from those who have committed minor offenses such as checks issued with insufficient funds or breach of trust. A number of factors should be considered in the classification of prisoners including the type and seriousness of the offense, the psychological condition of the prisoner and the circumstances of the crime.

##### **a. Juveniles**

Exclusively transfer juveniles from all prisons and detention facilities (particularly from the Juvenile Department in Roumieh Prison) to special punitive, disciplinary and correctional institutions.

Build new and modern observation centers to receive detained juveniles, because the current observation center in Hadath, Al-Warwar institute, is obsolete and still occupied by the Internal Security Forces

##### **b. Women**

Build prisons that are in conformity with modern punitive standards. These facilities should include adequate health care facilities for prenatal and postnatal care for pregnant prisoners. This would allow them to nurture their newborns in prison for at least two years.

##### **c. Special cases**

Remove drug addicts and mentally ill persons from all prisons and detention centers and place them in special facilities (such as special wards in the central prison), where they can be treated and rehabilitated.

##### **d. Foreigners**

Deport or, otherwise, release foreign prisoners without delay after they have served their terms.

Extradite foreign prisoners to prisons in their home countries, whenever possible, upon the request of the latter and within the limits of judicial agreements with Lebanon in this regard (such as the Lebanese-Syrian judicial cooperation agreement).

#### **Fifth: Provision of basic needs**

- 1- Provide basic needs for public health. These include proper ventilation, drinking water, warm water for showers and personal hygiene, toilets, beds, blankets and appropriate clothes.
- 2- Improve quality, preparation, distribution and intake of food (special places for eating). This can be achieved by assigning prisoners for performing these services under the supervision of the punitive institution. Alternatively, these services may be carried out by the army officers or special civil institutions subject to guaranteeing transparent contracting, quality of implementation and cost efficiency.
- 3- Provide private and public places suitable for persons with physical disabilities, pursuant to Law no. (220) on the rights of persons with disabilities.

#### **Sixth: Physical and mental health**

- 1- Offer appropriate preventive and responsive physical and psychological treatments in all prisons. This includes the provision of appropriate medication and pharmaceuticals, as well as a special center for drug addiction treatment and rehabilitation. There should be an on-site clinic with resident doctors and nurses (full service during the day and only for emergencies at night). Prison medical clinics should be well equipped to treat most medical cases including minor or emergency surgeries, and perform some medical or radiological tests.
- 2- Cooperate with the Ministry of Health, the Lebanese Red Cross, and all public and private hospitals. Increase the number of beds for prisoners and simplify the rules and conditions of correspondence and transfer of prisoners during emergencies for more expedient medical treatment outside prison.
- 3- Combat the use of drugs and tranquilizers in prisons.

#### **Seventh: Educational activities**

- 1- Develop literacy programmes and ensure education to prisoners who couldn't receive primary education (especially juveniles). Help prisoners continue their academic studies and take official and private examinations in prison.
- 2- Provide every prison with a library that contains a good number of books, magazines and daily newspapers. Allow prisoners to borrow and take books to their cells. Provide all prisons with television sets and computers on the condition that media and entertainment devices are strictly used in line with the correctional plans set for the various types of offenders.
- 3- Introduce civic and religious education to the educational curriculum in prisons.
- 4- Develop cultural and artistic programmes (music, theater, drawing and other artistic skills).

### **Eighth: Sport activities**

- 1- Allow all prisoners to take walks, exercise and play sports outside, under the sun, for at least three hours a day without restrictions. To this end, suitable places and facilities should be available.
- 2- Amend regulations so that prisoners spend less time in their cells and more time outdoors.

### **Ninth: Working inside the prison**

- 1- Develop businesses and activities in prisons, provided that proceeds go to prisoners and the prison. For that purpose, suitable industrial plants, workshops and installations must be provided free of charge.
- 2- Organize training sessions on useful skills to help prisoners enter the labour market upon their release. This will allow for their successful reintegration into society with the cooperation of professional bodies and organizations.

### **Tenth: Freedom of belief and religious practice**

Ensure that prisoners in all prisons are able to perform their religious practices. Allow clergymen of various sects and confessions to visit prisons. This includes the right for prisoners to take part in prison prayers and own religious and prayer books.

### **Eleventh: Visits and contact with the outside world**

- 1- Apply decent rules for the entry of visitors and the conduct of visits to prisons in satisfactory facilities and apply the “family encounter room” experience, implemented in Roumieh Prison, in all other prisons.
- 2- Take all necessary measures that help in establishing contact between the prisoner and the outside world on regular intervals. Priority should be given to family and friends of good behavior. This contact may be arranged through letters, phone calls or visits.
- 3- Apply the experience of pre-paid call cards within the framework of a well-studied punitive policy (e.g. to encourage prisoners of good behavior).
- 4- Allow people coming from distant locations to stay with the prisoner for more than 15 minutes and extend visiting hours to 5:00 p.m.
- 5- Facilitate visits of provisionally detained by ensuring the presence of judges in central prisons, particularly Roumieh prison.
- 6- Allocate special rooms for the private meetings between lawyers and their client detainees or convicts. Such rooms must be free from any wiretapping and visual surveillance devices.

### **Twelfth: Prison management**

- 1- Improve the Lebanese prisons regulations of 1949. The first stage includes the examination and classification of convicts to define the punitive treatment that suits and improves the personality of each one of them. The second stage includes health care, psychological and social support, professional training, encouragement of

prisoners to work, as well as punishment and reward systems in line with rehabilitation goals, and change of sentence execution by the court in line with the convict's responsiveness to the rehabilitation process. The last stage is to secure post-prison care to facilitate the reintegration of those released into society.

- 2- Proceed with the transfer of prison management to the Ministry of Justice in line with the provisions of the law and the agreement of the two relevant ministries. Cooperate with other ministries, namely the Ministry of Defense and the Ministry of Interior Affairs, to manage prisons. Define the permanent or provisional rules pertaining to security guards inside and outside prisons.
- 3- Consider the establishment of an independent public committee until the management of prisons is fully transferred to the Ministry of Justice. That committee would be responsible for the management of prisons. It would be reporting to the Ministry of Justice, presided by a judge and composed of representatives of other ministries and bodies involved in prison management. These include the Ministries of Interior, Health, Social Affairs, Education, Labour, Foreign Affairs, Culture, and Sports and Youth. The committee would also comprise representatives from the bar associations and civil society organizations working in prison development. It would appoint specialized managers as heads of different prisons and these would be assisted by a committee of experts required for the proper management of prisons.
- 4- Improve the competency of prisons administration, staff and guards. This requires the establishment of an institute to train and offer prison staff and guards professional and financial incentives. Ensure that they are adequately equipped to carry out their duties (appropriate weapons, surveillance cameras, x-ray screening machines and scanners for checking incoming and outgoing materials).
- 5- Conclude cooperation agreements between the Ministry of Interior and other competent ministries, until prison administrative reforms occur. These agreements pertain to the provision of special services in prisons, each according to the ministry's mandate (e.g. health, education and social affairs).
- 6- Vest one permanent and specialized administrative body, instead of different parties, with the management of all prisons (particularly the Ministry of Defense and the current department affiliated to the information branch of the ISF in Roumieh Prison).
- 7- Sign agreements with employees, contractors, volunteers and officers in charge of the various administrative sectors (e.g. nurses, social workers, professors, academic teachers, professionals and women prison inspectors) until the new law is developed and the administrative body is established. Improve prison management staff efficiency and skills through regular training sessions on prison management and the treatment of prisoners and their families.
- 8- Continue to nurture positive cooperation with national civil and religious organizations concerned with prisons.
- 9- Create an agency within the prison's organizational chart with the mandate of social reintegration of the released. The agency should also cooperate with relevant civil society organizations. It should prepare prisoners for the post-release stage, including providing financial and social assistance to those in need. Other responsibilities

include family reconciliation, provision of temporary housing or employment, and facilitating the pursuit of education.

- 10- Establish a study unit within the new organizational chart of prisons to conduct various punitive researches. This unit shall assess the work performed in prisons and determine how successful it is. It shall also define punitive reform challenges and propose suggestions to improve the performance of punitive institutions.

### **Thirteenth: Discipline and the right to complain**

- 1- Develop clear legal rules to define how to impose disciplinary sanctions upon prisoners with bad behavior. Such rules should cover a range of procedures, beginning with the detection and investigation of a violation. Prisoners should be given the right to defend themselves personally or through a lawyer if necessary. Then the accused prisoners shall be brought to trial by higher administrative authorities, independent from those who detected and investigated the violation. Rules of disciplinary appeals should be clearly defined.
- 2- Simplify the process of the submission and evaluation of prisoners' claims of ill treatment. All forms of torture should be abolished. Every complaint should be seriously investigated and every person alleged responsible for any form of torture should be prosecuted and tried (not only subject to disciplinary measures when it is necessary to refer the investigation to the judiciary).

### **Fourteenth: Control and inspection**

- 1- Enforce regular and systematical inspections, effective security, and administrative and judicial control of prisons. This includes reviewing the competencies of public prosecution offices, and performing periodical inventories of detainees.
- 2- Enhance parliamentary oversight of prisons by conducting periodical visits and issuing visit reports to note prison conditions.
- 3- Expedite the establishment and formation of a torture prevention committee and develop rules to allow it to visit prisons. This is a commitment that Lebanon has to fulfill by virtue of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
- 4- Encourage continued cooperation with the International Committee of the Red Cross (ICRC). Encourage the Committee to visit all prisons in Lebanon and draft and submit visit reports to competent authorities.
- 5- Encourage continued cooperation with the UN Committee against Torture and invite the government to publish the first report it has prepared after its visit to Lebanon in the summer of 2010.

## 6. DEATH PENALTY

One of the most important human rights in international conventions is the right to life. To this end, the international community issued conventions, protocols, declarations and recommendations aiming to abolish the laws and practices that contradict this right, particularly the death penalty.

The death penalty has been severely criticized since the middle of the last century. Legal and social scientists, thinkers and intellectuals claim that it is a harsh and irreversible punishment, even if the person sentenced to death was later proven innocent because of an error in the investigation process or the court decree itself.

The death penalty itself is not the only reason for which the protectors of human rights in the world were outraged. They also complain of the means by which a death sentence is carried out (i.e. public execution).

### **First: The legal situation**

#### **1- International standards**

Several international and regional conventions and resolutions have been issued in recent years. These call for the reduction of the number of death penalty sentences until the complete cessation of the sentence comes about. So far, more than half of the world's countries have committed to this rule.

The Second Optional Protocol to the International Covenant on Civil and Political Rights in 1989 urged the States Parties to abolish the death penalty with the possibility of enforcing it in times of war, and in cases of serious crimes of military nature. Lebanon has not signed this Protocol yet.

Article (6) of the International Covenant on Civil and Political Rights ensured the right of each human individual to live and not be arbitrarily deprived of his life. It also stipulated that the sentence of death must not be imposed in countries which have not abolished the death penalty except for the most serious crimes pursuant to a final judgment rendered by a competent court. The same article states that anyone sentenced to death shall have the right to seek pardon and may be granted that right. Finally, it states that sentence of death shall not be imposed for crimes committed by persons below eighteen years.

The international criminal law also does not allow the death penalty. This is the case in the special basic rules of the previous Yugoslavian court, the court of Rwanda, the International Criminal Court (Court of Rome) and the Special Tribunal for Lebanon undertaking to try those behind the assassination of former Prime Minister Rafiq Hariri, regardless of how serious the crimes committed are.

### **a. Regional conventions**

Several regional conventions provided for the abolition of the death penalty or at least reducing its occurrence to the minimum. Those include:

- The Protocol to the American Convention of Human Rights to Abolish the Death Penalty.
- Protocols no. (6) and (13) to the European Conventions for the Protection of Human Rights and Fundamental Freedoms.
- The Convention on the Rights of the Child (article 37/A).
- The African Charter on the Rights and Welfare of the Child (article /3).
- The Protocol Additional 1 to Geneva Convention (article 77, paragraph 5).
- The Arab Charter on Human Rights (article 5, 6, and 7).

### **b. International resolutions**

The international resolutions and recommendations give the right of life special consideration, and explicitly prohibit the violation of this right even if the person concerned is described as a criminal. Some of these resolutions are:

- Resolution no. (2857/25) issued by the UN General Assembly on 20/12/1971. The two resolutions issued by the UN Economic and Social Council on 20/5/1981 and 9/5/1979.
- Resolution no. (727) issued by the European Council on 22/4/1980.
- Recommendation no. (891) issued by the European Parliament on 18/6/1981.
- Resolutions no. (8/1998) and (61/1999) issued by the Human Rights Committee.
- UN resolution no. (194/62) in 2008, for a moratorium on the use of the death penalty. 108 countries voted in favor of this resolution, 41 countries against it and 36 countries, including Lebanon, abstained from voting.

## **2- National legislation**

The Lebanese legislation imposes death penalty as provided in the Lebanese Penal Code of 1943, which was derived from the old French law. However, the French law has undergone several amendments and the Lebanese has not. The Lebanese criminal policy is based on punishment, deterrence and 'codified vengeance' to protect society and public order. The policy even permits to 'get rid of the murderer' instead of placing him in prison for correction and rehabilitation.

However, crimes punishable by death penalty are specific as provided in articles (273), (274), (275), (276), (549), (640), (642) and (643) of the Penal Code.

The punishment is also prescribed in other special laws as the Military Penal Code (articles (121), (124), (130), (132), (168) and (171)), the Drugs Law (article (140)), the law on the Preservation of the Environment from Pollution by Hazardous Waste and Materials (articles (11) and (12)) and a law passed on 11/1/1958. The latter imposes severe sanctions on crimes of inciting civil war and terrorism. It also replaces the temporary hard labour sentence with lifetime hard labour sentence, and provides for the death penalty if the terrorism act led to death, destruction or vandalism.

At the end of the 1975-1990 war in Lebanon, Law no. (302/1994) was issued to deprive the judges of the power to exercise discretion in applying extenuating circumstances. Accordingly, homicide of all types is punished by death, included in articles (547) and (548) of the Penal Code, regardless of the reasons that led the offender to commit the crime. Later, Law no. (338/2001) was enacted to repeal Law no. (302/1994) and reinforce the provisions of the Penal Code that were previously effective.

Ten MPs submitted two anti-death penalty draft laws in cooperation with the National Anti-Death Penalty Campaign in 2004 and 2008. The draft laws have not been examined or approved yet.

## **Second: The current situation**

Death penalty is prescribed in the Penal Code<sup>21</sup>. The Lebanese courts apply its principles once its conditions are met, though they often tend to take into consideration the extenuating circumstances and replace the death penalty with lifetime hard labour. The executive authorities have refrained, for the last few years, from imposing death sentences, and instituted a moratorium on death penalty.

It should be noted that neither death penalty nor life imprisonment is imposed on a juvenile offender, in accordance with the second paragraph of article (15) of Law no. (422/2002) stating that "if an offense is sanctioned by death or life imprisonment, the sentence shall be reduced to imprisonment for a term of 5 to 15 years".

For the first time, the Law on the Execution of Sanctions (related to the reduction of sanctions in light of good conduct in prison) observes a reduction of the death penalty subject to conditions therein. On 13/10/2011, the law which was issued on 17/9/2002 was amended to reduce sanctions, though it was not fully enforced until 2009. One of the progressive achievements made by the Law of 2011, in relation to penalty reduction, is that judges were granted the right to avoid the imposition of a death sentence and reduce it to life imprisonment.

Approximately 70 civil society organizations have called for the abolition of the death sentence. The groups have initiated a large number of activities since 1997 under the name of "the National Campaign for the Abolition of the Death Penalty in Lebanon". They have called for the abolition of the law that prohibited judges from using their discretion in observing extenuating circumstances, and participated in drafting laws for the abolition of the penalty.

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21 In specific cases, namely as mentioned in articles (549), (273), (274), (275) and (276) of the Penal Code, articles (110), (121), (124), (130), (132), (168) and (171) of the Military Code, Article (140) of the Law on Narcotic Drugs, Psychotropic Substances and Chemical Precursors of 16/3/1998, articles (10) and (11) of Law no. (64) of 12/8/1998 for the Preservation of the Environment from Pollution by Hazardous Waste and Materials, in addition to the abrogation of the Law of 11/1/1958 and the reinforcement of articles (308), (309), (312), (311), (313) and (315).



### **Third: Executive measures**

#### **1-The Parliament**

- a. Ratify the second optional protocol of the International Covenant on Civil and Political Rights (\*). (ST)
- b. Consider the abolition of the death sentence. Replace it with the sentence of life imprisonment and irreducible life imprisonment for heinous crimes. (ST)

#### **2-The Council of Ministers and public administrations**

- a. Maintain the current moratorium on the death sentence and adopt the UN General Assembly's resolution no. (149/62) that calls for a moratorium on the use of the death penalty. (ST)
- b. Raise awareness through the media on the necessity of putting such amendments into effect. Shed the light on the advantages of the amendments, and compare advantages and disadvantages of the death penalty. Publish surveys and statistics of countries that have abolished the death penalty to create public opinion in favor of abolishing this penalty. Carry out these recommended measures in cooperation with the Ministries of Justice and Information. (MT)
- c. Establish adequate high security facilities for those sentenced to life imprisonment to prevent break-outs. Assure victims' families that criminals will not be left at large and ensure the enforceability of punishment. (MT)

#### **3-The judiciary:**

Until an agreement is reached to abolish the sentence, death penalty should be restricted to the most serious crimes, in accordance with the legislation in force at the time of the relevant committed crime. This is an obligation that Lebanon has to fulfill under article (6/2) of the International Covenant on Civil and Political Rights, and as recommended in 1977 by the Human Rights Committee in its comment no. (6) to article (6) (\*). (ST)

## 7. FREEDOM OF EXPRESSION, OPINION AND THE MEDIA

The freedom of expression, opinion and the media is one of the fundamental freedoms advocated in international human rights laws. It is one of the pillars of the pluralistic democratic society. It offers opportunities for everybody, whether they were supporters, opponents or others.

### First: The legal situation

#### 1- International standards

Several conventions, declarations, recommendations and special resolutions have been issued to protect the freedom of expression, opinion and the media. Those include:

- a. UN General Assembly Resolution no. (59/D-1) of 14/12/1946 on the freedom of the media.
- b. The UNESCO Declaration on Fundamental Principles concerning the Contribution of the Mass Media to Strengthening Peace and International Understanding, to the Promotion of Human Rights and to Countering Racism, Apartheid and Incitement to War.
- c. UNESCO General Conference Resolution no. (104) issued in 1991 about the "Encouragement of the freedom of the media in the world".

#### 2- National legislation

The Lebanese Constitution clearly provides for the freedom of opinion (article 13) and respect of personal freedom (article 8). Several laws have been enacted on this matter, particularly:

- a. Mass media laws.
- b. The Publication law.
- c. The Law on Radio and Television Broadcasting.
- d. The Parliamentary elections law (the section referring to the mass media's coverage of elections).

### Second: The current situation

#### 1- Difficulties and challenges

These include: the pre-licensing system; the control of the mass media by powerful politicians; the distinction between political and non-political media; the prosecution of journalists; censorship; forcing the media into given trends; art censorship; legislation's failure to keep pace with up-to-date development in the exchange of information and freedom of information flow (the right of the public to information); restrictions imposed on accessibility; criminal limits for the freedom of opinion and expression, etc. It is also important to note that the challenges faced by religious freedoms in Lebanon, if any, are significant. However they are still considered small compared to the challenges faced by political freedoms.

## 2- Official practices

The treatment of journalists has become more civilized in the beginning of 2005 and improved in 2006. Recent years have witnessed a significant improvement in the area of expression of opinion, particularly in relation to the courage of the media to report public criticism, which was not a possibility in the past.

The situation of the media in general and the artistic and expressive media in particular, is relatively acceptable in Lebanon when compared with that of other Arab countries. Lebanon is in fact a haven for several Arab writers to the extent that it is said "Cairo writes, Beirut prints and Baghdad reads".

A new draft law for the media was proposed by MP Ghassan Moukhaiber in cooperation with Maharat Foundation. The Parliament is currently studying the new draft law to substitute it with the current Publication Law which has been in force in Lebanon for the past 64 years.

### Third: Executive measures

#### 1- The Parliament

- a. Approve the bill on the Right to Access Information.( ST)
- b. Amend the Publication Law, the Law on Radio and Television Broadcasting, the Electoral Law and all other provisions related to the freedoms of expression, opinion and the media. Take measures to abolish any provisions that are detrimental to this kind of freedom, including the following: (MT)
  - Lift all restrictions imposed on the freedoms to establish and publish print media. In this context, the media should be licensed by virtue of a simple notification only. This process requires a statement of intent to establish a media entity that needs to be submitted to the authorities within a given period of time, and according to certain requirements clearly defined by the law. Such requirements may relate to the identities, addresses and workplaces of incorporators, in addition to technical conditions needed to maintain quality radio and television broadcasting. All conditions should be clearly stated, rather than serving as a pretext for hampering the incorporation process.
  - Restructure the practices of media professionals to increase their level of protection. Explain and clarify who is a 'journalist' in the Publications Law and who is a 'media person' in the Media Laws to provide both journalists and media persons with the required legal protection.
  - Clarify and define the general terms and expressions mentioned in penal legislation, particularly: 'public safety disruption'<sup>22</sup>, 'hurting religious feelings'<sup>23</sup>, 'inciting sectarian violence'<sup>24</sup>, 'harming the unity of the country', 'the sovereignty

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22 Articles (322), (323) and other articles of the Penal Code

23 Articles (473), (475) and other articles of the Penal Code

24 Articles (295), (317) and other articles of the Penal Code

and independence of the State<sup>25</sup>, 'harming the financial position of the State'<sup>26</sup>, 'instigating fights among members of the nation'<sup>27</sup>, 'defamation'<sup>28</sup>, 'libel and slander'.<sup>29</sup>

- Amend the organizational structure of the National Media Council. Entrust this council with the authority to decide rather than just consult and to resort to courts. Reduce existing authorities overlapping with the duties of the Minister of Information. Explain the Council's relationship with the Minister of Information (if the Ministry of Information is to be maintained). Reconsider the way in which members are appointed at the Ministry of Information, without the influence of powerful politicians and increase their independence (appoint members of syndicates concerned with the freedom of the media, associations and syndicates of media professionals and intellectual elites).
- c. Technically restructure the audiovisual media by registering television and radio waves with the International Telecommunications Office. Regulate the installation of broadcasting and antenna equipment and improve broadcasting. Regulate encrypted broadcast which is currently disorderly, as well as regulate the installation of satellite dishes and users' subscriptions. (MT)
- d. Prohibit the Council of Ministers and the Minister of Information from suspending the media, and grant the same authority, solely, to the Court of Publications which shall, then, be named the "Court adjudicating media and expression cases". This special court must have broader powers to examine cases of those who work in audiovisual fields, writers, dramatists, poets, those who work in the cinema industry, singers, and other artists. It would also provide the latter with the required legal and judicial protection. (MT)
- e. Clarify the nature of violations leading to the suspension of the mass media while restricting them to serious violations only. Establish a grading scale for sanctions, ranging from minor and double fines to the temporary closure of mass media corporations, provided that all such measures are decided by the court. (MT)
- f. Eliminate the Ministry of Information and reexamine the ownership of governmental mass media, including television, radio and news agencies. This should be carried out in accordance with the previously mentioned conditions. Transfer some of the powers of the Ministry of Information to the Appeal Prosecutor General just as in the case of leaflet publication. (MT)
- g. Create an independent and competent oversight body with representatives from the Directorate General of General Security, relevant ministries, administrations and non-governmental agencies (Ministries of Culture, Education and Foreign Affairs, the Audiovisual Council, the Press Syndicate, the Syndicate of Editors, the Syndicate of Professional Artists and the National Cinema Center). Define the legal

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25 Article (302) and other articles of the Penal Code

26 Articles (297), (319) and other articles of the Penal Code

27 Articles (308), (317) and other articles of the Penal Code

28 Articles (383), (385) and (386) of the Penal Code, Article (22) of Legislative Decree no. (106/77) and Article (35) of Law (382/94), and other articles

29 Articles (385) to (389) and other articles of the Penal Code

- principles that provide for oversight without any possibility for interpretation or political manipulation. (MT)
- h. Define sanctions and measures that can be adopted with balanced, clear and gradual oversight. Create effective rules to appeal such decisions. (MT)
  - i. Abrogate those provisions stipulated in the employees' regulations that restrict the right to write about a public issue, and prohibit relevant disciplinary sanctions. (MT)
  - j. Facilitate the creation of an effective and mandatory syndicate for those who work in the audiovisual media field. Define clear membership conditions and election terms. Grant members immunity against legal prosecution and arbitrary dismissal in media corporations. (MT)

## **2- The Council of Ministers and public administrations**

- a. Limit the authority to ban the entry of foreign publications to judges not to the Minister of Information according to urgent rules and specific standards. (MT)
- b. Ensure that media persons are not interrogated by the judicial police assistants (police officers, officers of the information and fact finding authority), especially in the case of no criminal intent. The public prosecution office can request a recording when it prosecutes the media person and refers him to the investigating judge. (MT)
- c. Prevent general security and criminal investigation departments from censoring theatrical pieces, books, magazines, films, compact discs and other such expression means. Abrogate all provisions that grant general security departments such authorities. (MT)
- d. Regulate advertising and the transparency of funding the media. Prohibit advertising monopoly by adopting the recommendations of the National Electoral Law Drafting Committee. These comprehensive recommendations have been put forth by former Minister Fouad Boutros and are based on the most advanced foreign laws that regulate the freedom of expression. (MT)
- e. Organize statistics in accordance with international standards. Regulate these with a legislation regulating the sources of funding, the party asking for the survey, the purpose of the survey, and the methods of with which answers and questionnaire are placed. (MT)
- f. Establish special locations and areas for publication in public places. (MT)
- g. Regulate the use of the internet, particularly to protect children. (MT)

## 8. THE FREEDOM OF ASSOCIATION

### First: The legal situation

#### 1- International standards

##### a. The International Covenant on Civil and Political Rights

Paragraphs 1 and 2 of article (22) of the above mentioned covenant protect the freedom of association as they state the following:

- Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of their interests.
- No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society for the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on members of the armed forces and of the police in their exercise of this right.

#### 2-National legislation

Article (13) of the Constitution stipulates that: “the freedom to express one’s opinion orally or in writing, the freedom of the press, the freedom of assembly, and the freedom of association shall be guaranteed within the limits established by Law”. This means that the Constitution does not discriminate among types of associations, nor does it mention syndicates freedoms.

On the level of ordinary legislation, on 3/8/1909, the Ottoman Law on Creating, Running and Dissolving Associations in Lebanon was enacted. This legislation remained in force after the independence until the enactment of Legislative Decree no. (153) dated 16/9/1983. It is a decree that amended several provisions of the Ottoman Law and subjugated associations to a rigid oversight by the Lebanese administration. However, that law was abrogated on 23/3/1985 leaving the 1909 law as the only one in force.

Despite this apparent liberalism, there are still some practices and laws that contradict the principle of the freedom of association. The Lebanese law does not treat all associations in the same way. On the one hand, there is what can be called the ordinary law of associations, as represented by the Constitution and the Ottoman Law on Associations of 1909. On the other hand, there are some laws related to some special types of associations, particularly the associations of youth, sports and syndicates.

The first type of associations is generally known as “notification” associations. These are only required to inform the competent administration of their existence. The second type includes those that require a pre-license from the competent administrations, which means there are many types of associations that depend on legal restrictions governing their establishment. The first criterion to distinguish those associations is to

know whether there is a special law for some of them. The second is to know whether these associations have to be licensed or not before their establishment.

It is also worth mentioning that besides the 1909 Law, there are many other provisions about associations in Lebanon, namely:

- a. Resolution no. (L.R), issued on 31/12/1939, by the High Commissioner Gabriel Puaux that regulates the association of foreigners. This law is still in force.
- b. Legislative decree no. (10830), dated 9/10/1962, that prohibits all people from participating in associations which have been dissolved because of a crime against state security.
- c. Law no. (629/2004), dated 20/11/2004, which makes the establishment of youth and sports associations contingent on a prior license from the Ministry of Youth and Sports.
- d. Chapter II of the Labour Law (articles 86 and following), dated 23/9/1946, and Decree no. (7993), dated 2/4/1952 regarding the establishment of syndicates for employers and employees.
- e. Decree no. (17199), dated 18/8/1964, regarding cooperatives.
- f. Legislative decree no. (35), dated 9/5/1977, regarding solidarity funds.
- g. Legislative decree no. (87), dated 30/7/1977, regarding public utility institutions.
- h. Article (22) of decree no. (5734), dated 20/10/1994, which created "The Department of Associations and Voluntary Institutions" affiliated to the Ministry of Social Affairs, and introduced a very strict framework for associations affiliated to the Ministry.
- i. Finally, the 1909 Law has an important characteristic. Indeed, it does not require for any association in Lebanon to be licensed before it is established. It is sufficient for the association to inform the competent administrative authorities of its establishment in order to acquire its legal personality. This system is known in Lebanon as the "notification" system. The announcement of an association is sufficient for the association to be established, because its objective is to prohibit secret associations which are punishable by law as indicated below.

The principle of the freedom of association in Lebanon is not limited to the establishment of the association. It also addresses the full life cycle of the association, which cannot be dissolved except by a decree issued by the Council of Ministers.

## **Second: The current situation**

### **1- Challenges and difficulties**

Before 2005, the administration failed to abide by the law and jurisprudence principles. It did interfere in the establishment of associations in different ways. It attempted to make the "notification" system require a pre-license, thus breaching the law of 1909. It also conducted investigations on the founders through security agencies and other ministries. Finally, it attempted to impose essential regulations on the incorporators, and breached the principle of the freedom of electing the administrative committee.

It is worth mentioning, in this context, that youth and sports associations cannot be established without a prior license by the Ministry of Youth and Sports.

With regard to syndicates, the respective legislation is very cautious and even distrustful towards syndicates which were considered, when the Lebanese law was being drafted, as sources of communist, Marxist, Nasserist or other progressive ideologies. Accordingly, public servants are prohibited from joining labour unions.

As for funding syndicates, the membership fees are, in fact, the only financial resource of the syndicate. Syndicates cannot borrow funds, and the Ministry of Labour fails to support them due to huge budget deficits. It is, therefore, no surprise that syndicates and unions have been undermined, especially after the collapse of the Lebanese pound and the Lebanese workers' wages.

## **2- Official practices**

It is appropriate here, to mention the decision of the State Council related to The Association for the Defense of Rights and Freedoms "ADL" VS. the Republic of Lebanon. It is decision no. (135/2003-2004), dated 18/11/2003, which emphasized on the following:

"[...] Whereas the freedom of assembly and freedom of association are fundamental freedoms guaranteed by article (13) of the Lebanese Constitution, no restrictions should be placed on the establishment or dissolution of associations except by a legal provision. Associations must be established without the intervention of the administration or the judiciary".

For associations in general, after years of violations of the principle of the freedom of 'notification' associations enshrined in Lebanese laws, particularly the 1909 law, the Minister of Interior issued on 15/5/2006 circular no. (10/AM/2006) on the establishment and operation of associations. The circular emphasized on the principle of the freedom of association, though it required the publication of the notification in the Official Gazette, while the law does not.

For Youth and Sports Associations, it seems that attempts are underway to revise the special legislation for youth and sports associations and restructure the respective ministry.

For syndicates, several provisions of the Lebanese law regulating the principles and conditions of establishing and running syndicates contradict the provisions of the Lebanese Constitution and other relevant international standards. Indeed, syndicates should obtain a license before they are established. The "notification" system is not recognized. Furthermore, the public administration interferes in the regulations and management. It doesn't leave it to syndicates to regulate and manage themselves independently.



### **Third: Executive measures**

#### **1-The Parliament**

- a. Ratify, the International Labour Organization Convention no. (87) of the year 1948 on the Freedom of Association and Protection of the Right to Organize, without any reservations, particularly article (2) thereof. This article states that “workers and employers, without distinction whatsoever, shall have the right to establish, and subject only to the rules of the organization concerned, to join organizations of their own choosing without previous authorization”. (ST)
- b. Amend Lebanon’s Labour Law so that its provisions related to the establishment and management of associations conforms to the provisions of the Lebanese Constitution, convention no. (87), and other international and Arab standards, related to the freedom of association and syndication. (ST)
- c. Observe the principles of the 1909 Ottoman Law on Associations and refrain from calling for its substitution with a new “modern” law or a special law for political parties. Otherwise, there is the risk that it would enshrine incorrect practices and breaches that violate the freedom of association and the law. (ST)
- d. Introduce necessary amendments to strengthen the freedom of association, after making sure the effective Law on Associations is properly implemented. This requires the broad involvement of representatives of all sector associations. Some proposed amendments include, for example, the reduction of the minimum age for membership from 20 to 18. (ST)
- e. Allow for the establishment of associations without the necessity of a “notification”. (MT)
- f. In terms of finance, the following is needed:
  - Develop provisions and clarify legislation regarding sources of funding. Expand the ownership eligibility and allow for the acceptance of donations and contributions. (ST)
  - Address the issue of memberships in terms of maximum and average membership fees. (ST)
- g. Amend article (22) of Decree no. (5734) of 20/10/1994 (regulating the Ministry of Social Affairs) in line with the principle of the freedom of establishment and dissolution of associations. Until then, urge the Ministry of Social Affairs to refrain from interfering with the establishment and dissolution of social affairs associations. However, the Ministry shall maintain the right to use its own discretion to define the rules and standards required for the establishment of associations. (ST)

#### **2-The Council of Ministers and public administrations**

- a. Urge the public administration and judiciary to observe the principle of the freedom of association until the effective Lebanese legislation in this regard is revised, and to interpret, restrictively, effective laws and rules contradicting this principle.
- b. Request the public administration to implement the provisions of the Constitution and the Law on Associations properly, and to refrain from violating the same, particularly the following:

- Observe the principle of the free establishment of associations without the need for pre-licensing through “notifications”. Suspend all practices and violations that make the Lebanese legal system a system that violates the Constitution with the pre-licensing system. (ST)
  - Facilitate the submission of association notifications to governorate offices and the Ministry of Interior. Refrain from all violation practices that restrict the submission of notifications to the Ministry of Interior only. (ST)
  - Refrain from linking the establishment of associations or delivery of notifications to any investigations that might be conducted by the various security or administrative bodies. (ST)
- c. Establish deadlines for the delivery of notifications. For example, if one week elapses before the referral of the association to the Council of Ministers for dissolution, the notification is deemed to have been automatically received. (ST)
  - d. Create an association registry at the headquarters of every governorate, similar to the Commercial Register. The registry should receive notifications for the establishment of associations along with all documents needed to be submitted by the association. This registry should perform its duties independently and answer to a judge, in accordance with article (19) of the Law on Associations which vests the Ministries of Justice and Interior with the task of supervising associations. (ST)
  - e. Brief associations, professional organizations, public administrations, and the general public that have the closest contact with associations (like banks and notaries public) about the rights and obligations enshrined in the Law on Associations. (ST)
  - f. Draft new more flexible forms of statutes and codes of regulations that allow current associations or incorporators of new associations to manage the association and run its activities properly and democratically. (ST)

## **9. PROTECTION FROM INTERFERENCE WITH THE RIGHT TO PRIVACY AND PROHIBITION OF WIRETAPPING**

Although the Human Rights Act does not explicitly prevent wiretapping, it insists on respecting the right to privacy without restriction, unless by law and within the limits of the protection of the society security.

Article (8) of the Lebanese Constitution emphasizes on individual liberty, and article (14) provides for the respect for the inviolability of the citizen's place of residence. However, many of the political and security practices of authorities since the country's independence restricted these freedoms.

### **First: The legal situation**

#### **1- International standards**

Legislation related to human rights in general and international treaties, in particular, do not include any explicit provisions that prevent wiretapping or monitoring private communications and correspondence among individuals and citizens. However, they generally provide protection from exposure to arbitrary interference in the private lives of individuals, including the protection from interference in family life, home and correspondence.

Article (12) of the Universal Declaration of Human Rights stipulates that "no one shall be subject to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honor and reputation. Everyone has the right to the protection of the law against such interference or attacks". The rules of the Universal Declaration of Human Rights have become peremptory, and no agreement contrary thereto can be made.

Article (17) of the International Covenant on Civil and Political Rights states that no one shall be subject to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honor and reputation. It must be noted that article (4) of the Covenant allows the states parties to take measures derogating from their obligations under the Covenant, in time of public emergency, provided that such measures are not inconsistent with their other obligations under international law. It further states that in time of emergency, any State Party availing itself of the right of derogation shall immediately inform the other states parties through the intermediary of the Secretary-General of the United Nations. Lebanon has been under a declared state of emergency for a long time, but has not informed the Secretary-General, at any stage, of its intention to cease implementing the provisions of the articles of the Covenant, including article (17) therein.

## **2- National legislation**

### **a) The Lebanese Constitution**

The Constitution does not include any special article in respect of the right to privacy and the protection of individuals from interference with their correspondence and communications. But article (14) guarantees the inviolability of place of residence and does not allow anyone to enter the latter except in the circumstances and manners prescribed by Law. However, the intent of the Constitution was to protect individuals from interference with their private life, their correspondence and communications, and their home, all of which fall within the framework of the right to privacy.

### **b) Ordinary legislation**

Until 1999, Lebanon did not have a law pertaining to wiretapping. Due to the spread of illegal wiretapping, calls for the regulation of this issue and the limitations of arbitrary measures emerged from inside and outside the Parliament. Wiretapping had to be defined and used restrictively by a legal entity, according to defined rules and within defined contexts. This entity would exercise its powers under assignment or request of the legally competent body. Accordingly, Law no. (140/1999) was issued.

Under Law no. (140/1999), any person that interferes with private conversations shall be imprisoned for one to three years, and pay a fine of fifty to a hundred million Lebanese Pounds for having breached the law. Correspondingly, any person shall receive the same punishment if he instigated, participated or was involved in the offense, reproduced, retained or disclosed information that he has gained through his interference with communications based on assignment by competent authorities, or interfered with communications in areas other than prescribed by the assignment. The law vested the courts of justice with the power to rule on crimes specified in article (17) therein.

The implementation of Law no (140/1999) was delayed until the issuance of the application decrees in 2005. Consequently, the delay in issuing these decrees resulted in the non-implementation of this law for six years. Moreover, it should be noted that these decrees were not implemented until 3/2/2009. So it is only as of that specific date that wiretapping legal provisions and regulations started to be implemented.

The recent entry into force of this law makes it difficult to predict the extent of its success in regulating and limiting the scope of wiretapping and protecting the rights of individuals. Law no. (140/1999), derived from the French law of 1991, appears to be an advanced measure of observance of the international standards adopted in the Human Rights Act.

The provisions of this law that govern wiretapping are acceptably clear and not ambiguous.

## **Second: The current situation**

### **1- Challenges and difficulties**

The in-depth follow-up of this issue shows that wiretapping occurs actually outside official channels or places. Until August 2005, reports indicated that wiretapping has been practiced by the Directorate General of General Security and the Army Intelligence Directorate. Moreover, there are unofficial bodies that are likely to practice wiretapping from inside or outside the Lebanese territory. It is also likely that a number of influential officials possess sophisticated wiretapping equipment. Additionally, there are a number of global wiretapping platforms in Cyprus and the region in general which allow for the interception of communications in wide geographic areas, including Lebanon.

The difficulty does not lie in prohibiting or regulating wiretapping, but lies first, in the extent to which the law is observed, and second, in the ability to detect wiretapping in the first place. If wiretapping actually occurs in unknown and unofficially defined places, it is difficult to detect, stop or regulate it.

### **2- Official policies and practices**

The adoption of Law (140/1999) aiming at safeguarding the right to confidentiality of communications conducted by any means, is considered a positive and proper step towards putting an end to violations of personal freedoms and the right to confidentiality of communications.

Unfortunately, the law was implemented in 2005 due to the delay in issuing its application decrees. This delay shows the absence of some decision makers' will to combat wiretapping. It is certain that in most stages of the modern history of Lebanon and even after the Syrian withdrawal from Lebanese territories, wiretapping has been used to collect political and security information. The pretext of wiretapping was to protect national security. However, facts have revealed that wiretapping was mostly practiced for political purposes, against opponents of the regime. These practices led to the violation of their freedoms under the pretext of protecting the public interest.

## **Third: Executive measures**

### **1-The Parliament**

- a. Define specific cases where wiretapping is exclusively and accurately permissible. (ST)
- b. Vest the first investigative judge with the authority of supervising wiretapping while granting discretionary authority to another judicial body. (ST)
- c. Restrict the right to object to the prosecution of crimes penalized by deprivation of freedom to no less than two years instead of one year. (ST)

- d. Permit the challenge of a wiretapping judicial decision, article (2). (ST)
- e. Explicitly prohibit the extension of wiretapping by a decision issued by the same authority and in the same manner except for once (Articles (3) and (9) of Law no. (140/1999)). (ST)
- f. Restrict the independence of the judicial police officer practicing legal wiretapping. (ST)
- g. Restrict the use of wiretapping to collecting information to fight terrorism, crimes against the state security and organized crimes. Stipulate that the decision to wiretap be triggered only by justifiable suspicions. (MT)
- h. Expressly state the severe punishment of those who disclose information obtained through illicit wiretapping. (ST)
- i. i. Expressly state the severe punishment of those who use information obtained through legal wiretapping for personal purposes or for harassing politicians. (ST)
- j. Expressly state the severe punishment of those involved in the political manipulation of judicial decisions to intercept the communications of Parliament members. (ST)
- k. Prohibit reliance on the probative force of reports of intercepted communications as an adequate proof for conviction. Intercepted communications should not be deemed as a confession. Their purpose is to observe the movements of perpetrators and detect crimes. (ST)
- l. Develop Law no. (140/1999) and introduce amendments for the protection of the rights of individuals as follows: (MT).
  - Having borrowed most of the provisions of the law of 1999 from the French law, the Lebanese legislator should have incorporated a definition of the expression “most urgent circumstances” that is similar to the definition used in the French law; as per article (2) of Law no. (140/1999).
  - Clearly define clearly the period for wiretapping as per the French law. The law in question, notably article (9) thereof, was discussed by the Speaker and the members of the Parliament on 12/10/1999 and 13/10/1999. Furthermore, the legislator’s intent was clear; the wiretapping period could be extended for one time only. However, the text is ambiguous and does not reflect the intent of the legislator. This should have been avoided with the use of an explicit provision setting the maximum extension period.

## **2- The Council of Ministers and public administrations**

- a. Lift the technical protection of communications data (ST)  
Lift the protection of communications data and the information bank and establish technical procedures to ensure the destruction of information after use within legally defined periods.
- b. Reform security and administrative agencies (MT)
  - Enact a law to regulate and restrict wiretapping. This is a positive step in the right direction, but it is not enough without the sound implementation and full observance of its provisions. This requires the radical reform of concerned security agencies, which have suffered, for years, from security and political

breaches. The reform and protection of such agencies from any political or illegal interference is necessary for the protection of individual freedoms and citizens' rights. To this end, an independent and effective judiciary is also essential to combat any violations of the relevant provisions of the law.

- Install and operate the required technical devices and provide qualified technical staff to work at the special control center.
- Strengthen the role of the independent authority that is in charge of verifying the legality of administrative interception, and provide the administrative and clerical staff with other required resources, supplies and stationery.
- Political will and consensus are needed to prevent wiretapping from being used for political manipulation or blackmail. This requires influential politicians, both the governing parties and their opponents, to responsibly report any person who breaks the law.

## 10. THE RIGHT TO WORK AND SOCIAL SECURITY

The right to work and to social security has a central position in the human rights system, because it is related to human life and vitality. It is about the means to earn a living, and provide for one's family, including accommodation, food, clothing, education, health, transportation and participation in social and public life.

Social justice is the cornerstone of the stability of societies around the world. It is based upon labour and social welfare laws which the State should ensure to the best of its ability, especially when it has ratified international conventions to this effect.

Economic costs might be the smallest difficulties faced by the State. It is incumbent upon the State to consider contradictory interests, such as the interests of workers and those of employers. To that end, the State has to perform a task that is undeniably very difficult. It is the task of trying, as much as possible, to reach the defined goal by finding the best solution to preserve the unity and stability of society, thus fulfilling all conditions it is bound to by virtue of the international conventions it has agreed to implement.

### **First: The legal situation**

#### **1- International standards**

Several international agreements and recommendations have been issued to protect the individual's right to work and to social security. These define working conditions, wages and hours of work, health, workplace conditions, holidays, and comfort and transportation.

In summary, these conventions recommend that States take all measures necessary to create an environment that provides the greatest number of job opportunities for individuals. Those opportunities should guarantee dignified work environments and acceptable health and safety conditions, while offering the freedom to select job positions.

The following are some of the most important international texts in this field: article (8) of the International Covenant on Civil and Political Rights, articles (6) to (9) of the International Covenant on Economic, Social and Cultural Rights; as well as the conventions of the International Labour Organization, and the Arab Labour Organization conventions.

Lebanon ratified a number of these international conventions, including: the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and the International Labour Organization conventions. Lebanon adhered to 50 International Labour Conventions. These are Conventions no. (1), (8), (9), (14), (15), (17), (19), (26), (29), (30), (45), (52), (58), (59), (71), (73), (74), (77), (81), (87), (88), (89), (90), (95), (100), (105), (106), (109), (111), (115), (120),



(122), (127), (131), (133), (136), (138), (139), (142), (147), (148), (150), (152), (159), (170), (172), (174), (176), and (182). Forty-nine of them are still valid after Convention no. (15) was superseded by Convention no. (138) of 2003. Lebanon adhered also to the Arab Labour Organization conventions. It actually adhered to 7 of them. These are Conventions no. (1), (9), (13), (15), (17), (18) and (19).

These conventions contribute to the definition of the minimum conditions that must be stipulated in national legislation so that the State ensures correct and proper exercise of the right to work and to social security.

## **2- National legislation**

### **a. The Lebanese Constitution**

The Preamble of the Constitution indicates that the State cares for the country's social situation, undertakes to respect social justice and equality of rights and duties among all citizens, and guarantees the even development among regions on the social level.

Paragraph (c) of the Preamble states that "Lebanon is a parliamentary democratic republic based on respect for public liberties, especially the freedom of opinion and belief, and respect for social justice and equality of rights and duties among all citizens without discrimination".

Paragraph (g) adds: "The even development among regions on the educational, social, and economic levels shall be a basic pillar of the unity of the state and the stability of the system".

Although the Constitution fails to define how to carry out these principles in practice, it refers to some areas that fall within the social legislation. It prohibits employment discrimination based on gender, asks to protect the freedom to work, and creates incentives to secure employment opportunities in all regions.

It should be noted that the principles of social justice and social development mentioned in the Constitution are not the only principles on which the Labour Law is based. The Constitution actually covers many other matters that are translated in the Labour Law. These are the freedom of expression, which includes the recognition of freedom of association and the right to labour strikes demanding legitimate labour rights, and the cultural development among all regions, which means prohibition of child labour and a minimum age for compulsory education.

Ordinary legislation

- The Labour Law issued on 23/9/1946.
- The civil servants code of regulations issued on 12/6/1959, which regulates the relationship of the State with its functionaries.

- The Law on Collective Employment Contracts, Mediation and Arbitration issued on 2/9/1964.
- The Social Security Law put into effect by Decree no. (13955) dated 26/9/1963.
- The decree establishing the Cooperative of Government Employees issued on 29/10/1963.
- The Law on the Rights of Persons with Disabilities issued on 29/5/2000.

Additionally, there are also supplementary and application texts addressing some specific issues.

## **Second: The current situation**

### **1- Challenges and difficulties**

#### **a. In terms of the right to work**

- No recent amendments have been incorporated into the Labour Law although it has been approved for more than 60 years. Therefore, the Law is not up to date with recent developments, nor does it take into consideration new issues. This is why the Ministry of Labour was found obliged to exceed its authority sometimes to resolve the situation, but results were often insufficient.
- The problem of unemployment has been exacerbated, causing immigration.
- Serious and effective inspections are absent due to the poor capacities of the Ministry of Labour. Furthermore, courts processes are very slow, which makes laws ineffective because of the absence of oversight and accountability.
- Effective freedoms of syndication do not exist.

#### **b. In terms of the right to social security**

- Large parts of the Social Security Law have not been applied to persons referred to in the law and their application decrees have not been issued. Other groups of persons who were not originally accounted for in the law, received benefits further to consecutive revisions of the Social Security Law. Also, optional social security benefits have been made available for a limited number of cases.
- Some reimbursements offered by the Social Security Fund are not rewarded to members. These include sickness and maternity compensation, work emergencies compensation, as well as insurance for work emergencies, occupational diseases and education reimbursements. This is due to the Fund's inability to bear the financial burden resulting from these reimbursements, and more specifically, to the loss of the Fund's financial balance. This situation was exacerbated after the number of members was reduced without taking adequate measures to cope with this reduction, such as improving the collection of contributions and strictly monitoring reimbursements to prevent manipulation.

Currently, multiple health and social coverage plans exist along with the National Social Security Fund (NSSF). These include for instance the Cooperative of Government

Employees, various coverage plans for the armed forces, mutual funds, and insurance companies. Furthermore, the Ministry of Health covers people who do not have any coverage system. The multitude of coverage plans negatively affects the economic costs of coverage, not to mention that the conditions of coverage differ from one another.

## **2- Official policies and practices**

The Lebanese State strives to improve economic and social rights by continuously adhering to modern international conventions and development programmes, such as programmes to combat child labour. But the most important step, which is the modernization of social laws, still has not been adequately implemented to date, due to a number of political and economic reasons.

However, the major measures taken by the Lebanese State in this area so far are:

- a. The establishment of the National Council for Labour under Law no. (21/65), complemented by Decree no. (6304), dated 5/12/1966, and aiming at strengthening dialogue between employers and employees to improve working conditions and practices in this area.
- b. The establishment of the National Employment Office by Decree-Law no. (80) dated 27/6/1977, which aims to combat unemployment, contribute to improving the regulation of the labour market, and prepare studies and researches aimed at defining employment general policy.
- c. The establishment of the Economic and Social Council under Law no. (389) dated 12/1/1995.

## **Third: Executive measures**

### **1-The Parliament**

- a. Amend the Labour Law to enhance the legal measures designed to combat children and human trafficking. Enhance the measures related to combating child labour within the framework of the national strategy for combating child labour based on a study of best international practices. Enhance cooperation with international organizations and bodies in this field (\*). (ST)
- b. Amend the Labour Law by adding a special chapter, or enact a special law, that protects Lebanese and foreign workers' affairs and rights, pursuant to international standards, particularly regarding domestic workers (\*). (ST)
- c. Revise various scattered provisions and combine them all into one modern law that meets the emerging needs of the labour market. This new law should include clear and transparent provisions in order to allow all parties, especially salaried persons, to easily understand and protect their rights and obligations. (ST)
- d. Adhere to the International Labour Organization conventions: the Freedom of Association and the Protection of the Right to Organize Convention, 1948 (no. 87); the International Labour Standards Convention, 1976 (no. 144); the Occupational Safety and Health Convention, 1981 (no. 155); the Occupational Health Services Convention, 1985 (no. 161); and the Promotional Framework for Occupational

- Safety and Health Convention, 2006 (no. 187). Amend the provisions of the Labour Law in accordance with the provisions of these conventions. (ST)
- e. Enact laws that reduce the fragmentation of applicable regulations by incorporating most of them into one code. (MT)
  - f. Amend the Social Security Law by expanding its scope to cover all citizens. (MT)

## **2-The Council of Ministers and public administrations**

- a. Regulate the labour market by virtue of laws to avoid any unjustifiable disparity of rights and obligations among sectors (e.g. working hours and periods of leaves). Strengthen the role of the National Employment Office to combat unemployment, contribute to the promotion of the labour market and define the employment general policy. (ST)
- b. Request the Ministry of Education and Higher Education to guide students towards college majors that meet the demands of Lebanon's labour market. (ST)
- c. Strengthen the role of oversight and inspection bodies affiliated to the Ministry of Labour. Issue application decrees to implement all provisions observed in the Social Security Law, particularly, in relation to sickness and maternity compensation, as well as insurance for work emergencies and occupational diseases. (MT)
- d. Restore financial balance to the National Social Security Fund (NSSF). A special international social and economic entity should be in charge of auditing the NSSF. Solutions should be proposed and application decrees should be issued to this end. (MT)
- e. Enact modern pension regulations, such as a special plan for the old age security that is different from existing workers' end of service compensation plans. (MT)

## 11. THE RIGHT TO HEALTH

The right to health is an individual's fundamental right. This is confirmed by the International Bill of Human Rights, other human rights international conventions and a huge number of national constitutions, as physical and mental health are necessary and essential in order for all individuals to enjoy their other rights.

### First: The legal situation

#### 1- International standards

With the establishment of the World Health Organization (WHO), the right to health gained international recognition for the first time. With time, this recognition was confirmed by a great number of international declarations, covenants and instruments, including: the International Covenant on Economic, Social and Cultural Rights, the Arab Convention no. (7) in 1977, and the Declaration of Alma - Ata of 1978 on primary health care.

#### 2- National legislation

The Ministry of Public Health was established by the Law of 1946. By virtue of that law, the Ministry had three tasks: prevention, awareness, and care. With time, greater attention was given to social health; hence, the Ministry of Social Affairs was established in 1959, the National Social Security Fund in 1961, while the Sickness and Maternity Fund was launched in 1971. Furthermore, oversight was enhanced and consequently, the Central Inspection Board, the Civil Service Council and other institutions were established.

The Parliament passed Law no. (673) of 1998 which is the Law on Narcotic Drugs, Psychotropic Substances and Chemical Precursors. It was followed by Law no. (623) of 2004 on the regulation of the practice of the profession of nutritionists and meal planning. Lebanon also affirmed its commitment to the United Nations Millennium Development Goals.

### Second: The current situation

#### 1- Challenges and difficulties

The health sector in Lebanon faces a lot of accumulated problems over many years, due to war and the nature and foundations of the development and growth of the health sector in the country. Most importantly, the Ministry of Public Health has been unable to interfere, by virtue of the effective laws, to control supply and demand, or impose medical and economic feasible studies for every new investment in the health sector. This has significantly affected the quality of services provided, prices and funding sources, among others, including:

- a. Sustainability, resulting from a lot of important factors, including the existence of increasing and unlimited pressure on health expenditure. Such pressure is due to the weak structure of the health system, the weak oversight frameworks and

- the weak management of the sector in general, which translates into increased expenditure (regardless of quality).
- b. High outstanding arrears. These are monies owed by the public sector to the Social Security Fund and private hospitals. This clearly shows the difference between revenues and expenditures. For this reason, the sustainability of public social expenditures faces serious obstacles, which in turn motivate service providers to inflate their bills.
  - c. Effectiveness. The role of the State is still limited and ineffective when compared to other countries, and even when its productivity and revenues are compared with the ones of its peers in the private sector at the same level of spending.
  - d. Justice. There are many reasons for the existence or absence of justice in terms of the right of citizens to good health. Some of these reasons include the difficult economic situation that a big segment of the Lebanese society suffers from (30% are below the poverty line, and 8% live in severe poverty as per the Ministry of Social Affairs). Furthermore, households contribute to approximately 60% of the total health expenditure. Such contribution is a result of private insurance, the absence of old age security, the obstruction of optional social security and the high number of services for which half of the Lebanese people are not covered. except for hospitalization
  - e. The main problem is the low budget allocated for the Ministry of Public Health. This budget actually represents 9, 2 % of the total budget and it is the lowest in the region. Furthermore, the health sector remains under a lot of pressure to reflect the actual political and social situation in the country.

## **2- Official practices**

Many of the world's developed countries seek to change the concept of the right to health by focusing more on the right to a healthy life. This requires governments to invest in health by enhancing healthy lifestyles and raising awareness of preventive care within society. Lebanon has recorded significant progress in terms of health due to several factors, most notably:

- a. The launch of protocols for the treatment of malignant tumors in 2010. by the Ministry of Public Health
- b. The success in controlling infectious diseases and epidemics through the adoption of special programmes and campaigns dedicated to this end, such as: the national programme for combating AIDS, awareness campaigns about smoking side effects, the breast cancer early detection campaign, and the campaign to end polio, in 2011.
- c. Increased public awareness and improved healthy lifestyle for children and families, thanks to the positive role of the media, national and international governmental and non-governmental organizations in this regard.
- d. The improvement of health conditions, particularly the high rate of life expectancy at birth and the low infant mortality rate.

### **Third: Executive measures**

#### **1-The Council of Ministers and public administrations**

##### **a. On health insurance (ST)**

- Enhance the role of the Inter-Agency Coordination and Cooperation Committee between public insurers and the Ministry of Public Health, to adopt a roadmap for the development of a standardized system for public insurers. It should start with the standardization of working mechanisms, social security, and employee cooperative. It might extend to cover families of military servicemen, and end up with the implementation of the final system.
- Implement the project proposed by the Ministry of Public Health to gradually achieve justice with the right to good health, and address current health care gaps and problems in Lebanon.
- Apply total automation at the Ministry of Health and the National Social Security Fund.
- Apply and issue the Standard Health Care Card.

##### **b. On the realization of the “health for all” goal (MT)**

Enhance primary health care programmes for the various age groups, make the latter accessible to everybody by reducing or eliminating financial or other barriers between citizens and their health needs.

##### **c. On the pharmaceutical sector (MT)**

- Draft a comprehensive plan to manage the pharmaceutical sector. Define national drug needs and re-register currently registered medicines at a special department. Amend pharmaceutical legislation and laws, and strengthen the pharmaceutical inspection authority. Reinitiate the national laboratory for drug control because the current situation is not acceptable. It is necessary to establish an efficient national laboratory that would reinstate the medical care industry’s confidence in the quality of drugs distributed in Lebanon, and to monitor promotional advertisements.
- Encourage the national production of pharmaceuticals and give priority to essentials medicines.
- Provide guidance and information on the use of drugs, publish periodical newsletters about drug information, and prepare and publish the national drug brochure.

## 12. THE RIGHT TO EDUCATION

The right to education is the right of every person to get a sound education in a respectful environment which stimulates optimal growth, so that he can reach his potential and become an active member in society. Realizing this right is not as easy as it sounds. On the contrary, it is very complex and assumes the commitment of stakeholders to take all measures and procedures necessary to ensure equal opportunities for all individuals to enroll in educational institutions and be treated alike. Hence, the process of education must involve successful follow-up that requires a sound educational environment. This environment should respect the rights of learners and provide them with quality education through curriculums that take into account the aspirations of individuals, qualified teachers, and offers educational support services to make sure that all learners benefit from education regardless of their individual differences.

### First: The legal situation

#### 1- International standards

The right to education was first internationally recognized under the Universal Declaration of Human Rights. This right has gained the interest of international organizations since their inception and was considered the basis for achieving development and social change. Therefore, since its inception, the United Nations has continuously issued declarations, conventions and recommendations to emphasize this right, and adopt detailed and practical systems and procedures to realize the right of education for all.

More specifically, below are some of the international instruments defending the right to education:

- a. The Universal Declaration of Human Rights, the Dakar Framework for Action-Education for All, the Declaration of the Rights of the Child, the Declaration on the Elimination of Discrimination against Women.
- b. Conventions on combating discrimination in education, civil and political rights, economic, social and cultural rights, the elimination of all forms of discrimination against women, vocational and technical education, as well as survival, protection and development of children.
- c. Recommendations on, combating discrimination in education, education for mutual understanding and cooperation at the international level, and education in the field of human rights and fundamental freedoms.

#### 2- National legislation

Lebanon ratified various international conventions on education, particularly the International Convention against Discrimination in Education, the Convention on the Elimination of All Forms of Discrimination against Women, the World Declaration on the Survival, Protection and Development of Children, and the International Labour Organization's Minimum Age Convention no. (138).



The major national laws protecting the right to education are:

**a. The Lebanese Constitution**

Article (10) of the Constitution states that “Education shall be free insofar as it is not contrary to public order and morals and does not interfere with the dignity of any of the religions or creeds. There shall be no violation of the right of religious communities to have their own schools provided they follow the general rules issued by the state regulating public instruction”.

**b. Ordinary legislation**

Lebanon approved several laws governing the right of citizens to education, such as Decree-Law no. (134) dated 12/6/1959 which provides for “free education”, Law no. (686) dated 16/3/1998 enshrining the principle of free and compulsory primary education. However, the application decrees related to these laws haven’t been issued to date. Moreover, Lebanon recognized the right to education for persons with disabilities under Law no. (220) of the year 2000. It also adopted a plan for the reform of education in 1994, and issued decrees about the new educational structure in 1995 and the new curriculums in 1997.

**Second: The current situation**

**1- Challenges and difficulties**

Studies on the situation of education in Lebanon, particularly official reports issued by the Ministry of Education and Higher Education and the Center for Educational Research and Development, show that ‘education for all’ is not only a slogan used by many officials.. It actually is reality represented by a big number of different types of education and higher education institutions, as well as a high rate of enrollment. This is particularly the case in basic education where enrollment rates reached saturation, and the difference between male and female enrollment has been eliminated. However, despite the efforts made and the results achieved, there are still some obstacles to the realization of the right to education for all, as indicated in the Dakar Framework for Action, Education for All.

**a. In terms of access to education centers**

• **School enrollment**

For admission to kindergarten (children of 3 to 5 years old), the difference was noted in the enrollment rates between one year to another. Enrollment opportunities are unequal among governorates on the one hand, and the types of public and private schools on the other.

Enrollment in primary education is nearly saturated in the first two cycles (elementary education). However, the rates of enrollment are different among geographic regions, especially the North, the South and the Bekaa. The net enrollment rate in these areas is less than 50%. The illiteracy rate remains high at 8% for both genders. This percentage varies by gender, 5.1% for males and 10.9% for females, as it also varies according to regions.

The chances of success in official exams at the end of basic education years have increased in recent years, especially after the implementation of the new curriculum. However, the rates of success are different between public and private schools, and those of private schools are higher than those of public schools. Differences appear also among geographic areas where Beirut and Mount Lebanon record the higher rate. There is also success as differences between both genders showed the rates of females are higher than those of males.

With regard to secondary education, opportunities for the continuation of studies are unequal between public and private schools. Students in public schools are more likely to study humanities, while students in private schools are more likely to be enrolled in scientific disciplines. The difference is also observed in terms of the rate of success where the success in private schools is higher than the one in public one.

- **Higher education enrollment**

Students' enrollment in various disciplines is not even. More students enroll in open colleges for general disciplines and fewer enroll in professional disciplines that require admission exams. Although enrollment opportunities are equal for both genders, they are not among different geographic areas or among public and private sectors. Furthermore, the development of new disciplines in line with the development of the labour market and globalization is neglected.

## **b. In terms of quality of education**

- **Quality of education in schools**

It isn't enough for enrollment rates to be satisfactory for all education types to guarantee the right to education. We have to offer high quality education. To do so, we have to provide safe and healthy school environments, with properly and fully equipped facilities, and a qualified educational body for the academic achievement to be in line with international standards, especially in terms of developing the learners' knowledge, abilities and skills. Currently, public primary and secondary schools do not have school friendly environments. They do not provide students with a safe and comfortable environment that helps them overcome their fears, hesitation and introversion to realize their full potential and overcome the negative impact of underlying factors that shape their economic, social and cultural environment.

In addition, teachers at public schools are not all qualified because only 36.7% have received basic training which is already insufficient to teach at schools. The rest hold various degrees and diplomas but have not received any fundamental teaching training. Accordingly, teaching methods adopted in schools are only primitive. Students do not actually get to discover information but instead, learn it by heart. Efforts have been made to update teaching methods and focus on

teachers' new role; however, they are still not well trained for that new role as most of them still adopt traditional teaching methods. Furthermore, there are no educational services to assist students with learning difficulties. There is also a lack of counseling services to address the problems faced by students.

There aren't any national policies to control public schools. There is no application of the reward and punishment policy, whereby active teachers are rewarded and negligent teachers are punished for not performing their duties. This policy should also put forth provisions for teachers to improve their own performance and receive training on modern teaching methods. Furthermore, no training is provided for teachers on taking care of the marginalized, particularly persons with disabilities.

- **Quality of Higher Education**

Higher education suffers from chronic problems that limit its quality. These include the existence of obsolete programmes or programmes that aren't in line with the labour market. There is a large gap between the output of higher education and the needs of the labour market. There are also doubts about the efficiency of teachers and their ability to apply modern teaching methodologies, as some do not initially have any educational background. In addition, there is no proper counseling or guidance to help students choose appropriate institutions and disciplines that are consistent with their abilities and the labour market needs, which limits the effectiveness of higher education and the quality of its output.

## **2- Official practices**

The Ministry of Education issued decisions dedicated to the development of the right to education. Among those are the following:

- a. The exemption from certain registration fees in public schools, and from the cost of textbooks (under certain conditions).
- b. The registration of students transferred to public schools after being enrolled in private schools but did not receive certificates because they did not fully pay the tuition fees.
- c. The registration of non-Lebanese students residing in Lebanon in public schools if places were still available.
- d. The appointment of a special committee to develop strategic trends for education in Lebanon in 1999. The review of the strategy by the Lebanese Association for Educational Studies developed in 2006.
- e. The establishment of the Education Development Project in order to develop policies and education plans for 2004.
- f. The launch of the Education for All National Plan from 2005 to 2015.
- g. The issuance of a draft law that enshrines the right to basic education and makes basic education compulsory.
- h. The development of the Citizens' Education Charter.

Studies on the situation of education in Lebanon, particularly, official reports issued by the Ministry of Education and Higher Education and the Center for Educational Research and Development, show that 'education for all' is not a principle that only officials talk about, but actually a reality reflected in the existence of a number of different types of education and higher education institutions as well as the high rate of enrollment of students. This is particularly the case in basic education where rates reached saturation, and the difference between male and female enrollment has been eliminated. However, despite the efforts made and the results achieved, there are still some obstacles to the realization of the right to education for all, as indicated in the Dakar Framework for Action, Education for All. Many empowerment objectives have been proposed for the educational sector in the framework of a financial, economic and social reform plan. There are also measures proposed to achieve these goals. These have been raised during the Paris Conference held on 3/1/2007 and are related to the right to education. They include:

- a. Securing free public education and compulsory basic education from the age of 5 to 15.
- b. Securing equal opportunities for the continuation of studies and success of all students enrolled in public general and technical schools.

### **Third: Executive measures**

#### **1-The Parliament**

Enact the Law on Compulsory Education to all Children (up to the legally defined age) regardless of their nationalities. (ST)

#### **2-The Council of Ministers and public administrations**

- a. Apply the principle of the basic compulsory education by developing a system that achieves the goal of "a school seat for every student" (\*) in accordance with Law no. (686) of 16/3/1998. (ST)
- b. Implement the National Educational Strategy to set the compulsory age for education at 15, and satisfy the requirements necessary to achieve this goal. (ST)
- c. Incorporate human rights into the educational and cultural process by incorporating these in new curriculums, and offer relevant training by the Center for Educational Research and Development. (MT)
- d. Ensure equal individual opportunities within educational policies and plans, regardless of any conditions that may prevent such equality, particularly related to the social or economic situation and place of residence, among others. Equal opportunities must include the provision of school seats as well as fair and equal treatment. They also include the equal distribution of educational, and other supporting services, including qualified teachers, educational counselors; special educators specialized in teaching students with problems, educational supervisors, social workers and supervisors for extracurricular activities. (MT)
- e. Support the Lebanese University with appropriate funds and educational capacities in all regions in the country. (MT)

- f. Allocate adequate state funds for basic education, rationalize the use of resources, and enact necessary laws to assist with the enrollment of all students in educational institutions, particularly the marginalized and persons with disabilities. (MT)
- g. Integrate children with disabilities in public schools as much as possible in accordance with an all-inclusive educational approach (\*). (MT)
- h. Call for the cooperation of the State with all social institutions such as professional syndicates, labour unions and associations promoting the right to education. Raise public awareness on the necessity for people to be educated. (MT)
- i. Grant outstanding students school and college scholarships. (MT)

### **3- The role of public and private institutions**

- a. Pave the way for learners to acquire the basic knowledge and skills, and acceptable behavioral attitudes. (MT)
- b. Contribute to the social and cultural development of the communities they work in. (MT)
- c. Promote the value and benefits of the right to education. (MT)
- d. Ensure quality education in a reassuring environment and provide necessary educational programmes, human and physical resources, learning services, administrative techniques and cultural activities. (MT)

### **4- The role of local administrations, mainly municipalities and mayor offices**

- a. Prepare annual lists of individuals subject to compulsory education and ensure they are enrolled in educational institutions. (MT)
- b. Work with the relevant official authorities to prevent the employment of minors who are within the age of compulsory education. (MT)

### **5- Lebanese and international civil society organizations**

- a. The role of parents (MT)
  - Educate children about the importance and value of the right to education.
  - Provide the proper environment for girls and boys to study and do their homework at home and refrain from overburdening them with household chores at the expense of their education.
  - Register children in schools and ensure their regular attendance.
  - Respect school timings and ensure the timely arrival of their children to school.
  - Attend to school activities by meeting with teachers, attend the meetings of parent committees and build good relations with school officials.
  - Be involved with the children's lessons and assist them in doing their homework.
  - Fulfill all financial and moral obligations towards the educational institution.
  - Protect the right of children to education by holding the school and the state accountable for their obligations in case children are subject to exploitation, abuse or inattention by educators.
- b. The role of teachers (MT)
  - Use a variety of teaching methods to achieve the educational goals set for each educational cycle.

- Pay special attention to the individuals' educational needs and treat individuals fairly, respectfully and without the use of violence.
- Assess the educational needs and performance of learners on a regular basis. Ensure learners' safety and inform and discuss with parents the performance of their children to achieve educational goals.

#### **6- Civil society organizations including local administrations and associations**

- a. Monitor the performance of educational institutions and claim learners' rights. (MT)
- b. Interact with officials and participate in improving school performance and pinpoint shortcomings, if any. (MT)
- c. Raise awareness among parents on the values of education and learning so that they respect the rights of their children to education and send them to school. (MT)

#### **7- The role of media institutions in promoting the right to education**

Organize and promote special programmes on the right to education with the assistance of the media. Establish a special media institution that would handle cultural and educational programmes. (MT)

#### **8- The role of international organizations**

- a. Contribute with other countries to the design of educational plans to ensure the right to education. Ensure the proper implementation and control of such plans, and support the educational sector to realize the right of education for all. (MT)
- b. Offer financial assistance to provide for basic education. (MT)
- c. Encourage accountability and transparency in education. (MT)

## 13. THE RIGHT TO HOUSING

The right to housing is a fundamental human right and a tool for social protection. It has three essential dimensions, namely:

1. The economic dimension, which connects home ownership to life, quality improvement and national economic development stimulation.
2. The social dimension, which considers home ownership an essential prerequisite to achieve social stability.
3. The national dimension, which strengthens the sense of belonging to one's homeland.

However, with the presence of marginalized, disadvantaged and poor Lebanese groups of people, the extended old Rent Law since 1992, and the recent real estate boom, to what extent is the right to housing actually provided for in Lebanon?

### First: The legal situation

#### 1- International standards

Most of the international treaties and conventions define the minimum acceptable standards that countries must comply with in order to respect the right of individuals to adequate housing.

Paragraph (1) of article (11) of the International Covenant on Economic, Social and Cultural Rights recognizes the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing, and housing. General comment (4) of the Committee on Economic, Social and Cultural Rights, following up on the proper implementation of the International Covenant on Economic, Social and Cultural rights, indicates that all persons should possess a degree of security of tenure which guarantees legal protection against forced eviction, harassment and other threats.

Other international instruments such as the Convention on the Rights of the Child (article 27, paragraph 3) and the Convention on the Elimination of All Forms of Discrimination against Women (article 14, paragraph c) protect the right to housing.

The United Nations Conference on Human Settlements held in Vancouver - Canada in 1976, emphasized that the governments need to take the necessary measures to guarantee the right to housing for all individuals. The Convention of the United Nations Conference on Environment and Development, held in Rio de Janeiro in 1992, stipulated the need to ensure that all individuals receive legal protection against unjust eviction. Governments that met in Durban have taken appropriate measures to prevent racial discrimination in relation to housing. In addition, the Istanbul Declaration on Human Settlements which was adopted by the Second United Nations Conference on Human Settlements (Habitat II), in 1996, provided for the realization of the right to adequate housing entirely and gradually, along with protection from discrimination, and equal access to affordable, adequate housing for all persons and their families.

## **2- National legislation**

Several laws related to the right to housing have been issued in Lebanon. Some are related to housing and others to rents.

As for housing laws, a special housing law issued on 17/9/1962 established a council under the Ministry of Labour and Social Affairs called the "Housing Council". On 21/12/1973, Law no. (31/73) was issued; it provided for the transfer of all housing related duties vested in the "Housing Council" under the Ministry of Labour and Social Affairs to the Directorate General of Housing under the Ministry of Housing and Cooperatives. Moreover, Decree no. (9813), issued on 4/5/1968 established the "National Union for Cooperative Credit" and the Code of Regulations of the Union was ratified on 23/02/1972. On 18/1/1977, the government agreed on the implementation of the draft law referred by the Parliament and providing for the establishment of the "Housing Bank". Furthermore, on 15/5/1980, the law on the establishment of the "Independent Housing Fund" was issued, but the fund was annulled in 1996 by virtue of Law no. (539), which established the "Public Housing Institution".

As for rent laws, approximately 40 laws, decrees and resolutions have been issued from 12/10/1936 until 2002. These regulate the contractual relationships between landlords and tenants. Additionally, the Code of Obligations and Contracts contains provisions on rents. There is also Law no. (160/1992) which regulates rental contracts signed before 1992 and continuously extends them.

## **Second: The current situation**

### **1- Challenges and difficulties**

For the last three decades, Lebanon has faced a real housing crisis. A large proportion of the population doesn't have its own house, especially in main cities such as Beirut. This problem does not only affect low income individuals, but it also affects middle income families. The disparity in land and home ownership leads to the deterioration of the social and economic conditions and creates a gap between the rich and the poor in the cities. This situation contributes to social instability.

The housing situation in Lebanon is the result of poor planning and development due to the failure to understand the housing situation in the country. Lebanon doesn't have a scientific vision nor does it have housing strategies because there is no actual planning for financing or developing residential projects, infrastructure and superstructure. Furthermore, it fails to plan for land preparation and limits residential projects to cities, without rural areas. That is why residents moved to the cities and rural areas became impoverished thus negatively affecting the realization of a balanced development policy.

Additionally, the housing situation has faced economic and financial challenges and a lack of government support. In fact, since 2002, the national budget failed to allocate



certain funds to support the housing sector. The Ministry of Housing and Cooperatives was eliminated, and it was the Ministry of Social Affairs who took over its responsibilities. Later on, the Directorate General of Housing, the Independent Housing Fund and the National Union for Cooperative Credit were eliminated as well, to be replaced with the Public Housing Institution whose role is to monitor commercial banks' housing loans grants.

One of the most significant housing problems in Lebanon is the quasi absence of the role of local authorities at many levels, mainly planning, provision of infrastructure, necessary public utilities, and land preparation for construction. Furthermore, Lebanese construction laws do not clearly define construction specifications and building materials to be used.

The housing sector in Lebanon has become an economic indicator of the weak purchasing power of the individual in contrast with the rising costs of home construction. This situation is compounded by the difficulty to obtain housing loans, as the process of getting a loan is complex and loan granting institutions impose difficult conditions for loan advances, with different requirements and interest rates between one institution and another.

As for rents, the Rents Law no. (160/92) represents the biggest problem for owners of old buildings. Under this law which has been continuously extended, owners do not benefit from their own properties nor can they regain possession of their rental unit, should they wish to do so. Rigorous and strict conditions have been put in place to define how the tenant or his successors can evict the premises.

In addition to the above problems, the destruction caused by the war of 1975 - 1990 and the devastating Israeli attacks on buildings and infrastructure made the situation worse. Hundreds of thousands of people have been left without adequate housing.

It should be noted that during the Israeli aggression on Lebanon in July / August 2006, and according to data provided by the UN, more than four million cluster bombs were dropped on Lebanon. Some of them exploded, while it is estimated that more than a million cluster bombs did not explode and turned into land mines. This attack killed and wounded a large number of Lebanese civilians and caused many disabilities. Lebanese farmers in the affected areas were no longer able to tend to their lands to earn their living (as stated in the report of the fact finding commission established by the Human Rights Council that visited Lebanon in 2006).

The Lebanese government has exerted great efforts to clear land mines and expects continued international support in this regard as land mines still cause daily tragedies to people living in southern Lebanon.

## **2- Official policies and practices**

Housing loans began in Lebanon in 1977. The idea of assisting people to overcome housing problems with the help of specialized institutions originally emerged because of natural disasters. In 1956, earthquakes and floods in Lebanon displaced thousands of citizens; this is why the State created a 'National Department for Reconstruction' under the Ministry of Public Works and Transport. However, the role of this department remained limited to housing assistance related to natural disasters only. At that time, housing problems exacerbated; this is when the Housing Council was established.

The Housing Council aimed to provide assistance, within defined conditions, to citizens wishing to buy a house but had low incomes., It was also entrusted with the development of a housing policy to reduce overpopulation in some regions, through the development of new residential areas. Despite the broad powers it was vested with, the Housing Council managed to develop housing projects in different regions in Lebanon, but these were unfortunately not enough.

In addition to the exemptions provided for in the housing law and granted to individuals benefiting from the Housing Council facilities, the law of 1973 increased these exemptions and further encouraged residential construction practices. Hence, in accordance with the laws and regulations of the Directorate General of Housing, institutions, companies and organizations involved in the development of residential buildings were exempted from the fees of fiscal stamps, mortgage and mortgage release fees as well as interest taxes in case of mortgage.

After the proven ineffectiveness of the Housing Council, the Directorate General of Housing was established. It aimed at solving the housing crisis of the Ministry of Housing and Cooperatives. The Ministry has been vested with new duties and legislative powers. It could abolish, amend or develop any legislative provisions as it deemed necessary and could also establish any public institution necessary to resolve the crisis. However, the role of the Directorate General of Housing was limited, from its inception until its dissolution, to granting loans for the renovation of houses damaged by the Lebanese events, despite the broad powers with which the law has vested it to resolve all aspects of the housing crisis.

In addition, the National Union for Cooperative Credit did not make any significant achievements or tangible progress in resolving the housing crisis. As for the Housing Bank, it granted loans irregularly due to a difficult funding situation. Moreover, it did not offer any loan to any company, organization or association, but granted loans to individuals only.

### **Third: Executive measures**

These recommendations focus on the necessity to develop adequate policies to guarantee adequate housing as it is a human right.

1. Understand that adequate housing is a human right with social and economic dimensions and that it contributes to national stability.
2. Increase the intervention of the State in the housing sector by developing financial, economic, urban development, taxation and social measures and incorporating these into one national housing strategy.
3. Stimulate public and private partnerships taking into consideration the current role local authorities could play in these partnerships
4. Emphasize the importance of developing and updating a housing and real estate database in Lebanon. Encourage future governments and relevant institutions to realize the goal of providing adequate housing for all.

### **1-The Parliament**

- a. Approve the Rent Law and other similar laws that define the housing policy in Lebanon (including the rent-to-own law, and financial and tax incentives for the construction of community houses). (ST)
- b. Revise construction and easement laws to facilitate balanced development and a more effective housing sector nationwide. This would also contribute to continued development in some regions, and reduce unplanned investments in protected areas. (ST)

### **2-The Council of Ministers and public administrations**

- a. Meet the needs of citizens who lost or might lose their homes because of natural disasters (e.g. floods) or man-made disasters (e.g. wars and forced eviction). (ST)
- b. Improve slum conditions. (ST)
- c. Enhance national awareness on the right to housing. Disseminate information about poor areas and slums in Lebanon. (ST)
- d. Develop a housing strategy as an integral part of a national policy to combat poverty and enforce social and economic development. (MT)
- e. Develop a multimodal transport system as a top priority for affordable housing. Such a system may include marine, railway and public transportation. (MT)
- f. Develop policies that increase people's desire to reside in other regions at affordable costs. This can be achieved through the following: (MT)
  - The provision of public services and infrastructure.
  - The easy access of these regions to urban centers to reduce travel distances.
  - The improvement of the standard of life in these regions through the establishment of educational, cultural and entertainment projects.
- g. Study the possibility of offering tax incentives to ensure accessibility to affordable housing. Tax incentives could be used to encourage production or tax exemptions for basic or affordable houses. (MT)
- h. Invest in houses especially dedicated for rent through the provision of tax incentives to developers, or provide housing allowances for low income tenants. In this framework, the Ministry of Social Affairs is reviewing the rent-to-own law that allows tenants to own their rented apartments in the long term. (MT)

- i. Involve local authorities in enhancing the acquisition of affordable housing. Municipalities and waqf (religious endowment) authorities would have access to lands allocated especially for that purpose. Upon the introduction of appropriate programmes, the State should focus its attention on defining clear standards for the selection of beneficiaries and maximum monthly payments. (MT)
- j. Finalize the land survey of Lebanon to facilitate access to housing loans in areas that have not been surveyed yet, and develop those areas. (MT)
- k. Design policies, laws and other necessary instruments to reduce real estate speculation. (MT)

## 14. THE RIGHT TO CULTURE

The right to culture has begun to take a central place in the fundamental freedoms and rights of communities seeking to establish fairer systems and developed economies. It has, in fact become clear now how the right to culture relates to other human rights. Nevertheless, this right is still given the least attention, and few legal provisions exist in this area which is maybe due to the complexity of the field of culture and its comprehensiveness. However, it must be emphasized that the right to culture is not a luxury only for youth and other citizens, it in fact involves, in fact, the freedom to develop a sense of citizenship and critical thinking, It guarantees the richness of diversity and the acceptance of difference of opinions and tastes. It also protects national tangible and intangible heritage.

### First: The legal situation

#### 1- International standards

Lebanon has confirmed its honest intentions and commitment in this regard, It, hence, ratified the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, and the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict and its first protocol, 1954. It has also ratified the UNESCO Convention concerning the Protection of the World Cultural and Natural Heritage of 1972, the UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property of 1970, the UNESCO Convention for the Safeguarding of Intangible Cultural Heritage of 2003, and the UNESCO Convention on the Protection of the Underwater Cultural Heritage of 2001. Furthermore, the Taif Agreement (for national reconciliation) provided for the enhancement of the cultural, social and economic balance in Lebanese regions.

#### 2- National legislation

The Taif Agreement states in its first part that the even development among regions on the cultural, social, and economic levels is a basic pillar of the unity of the State and the stability of the system. The Preamble of the Lebanese Constitution provides for the respect of public liberties, especially the freedom of opinions and belief, and respect for social justice and equality of rights and duties among all citizens. Article (10) of the Constitution guarantees freedom of education and the right of religious communities to have their own schools, while article (13) therein guarantees the freedom to express one's opinion, the freedom of the press, the freedom of assembly and the freedom of association.

Since 2008, many laws have been issued:

- a. The Cultural Property Law no. (37) of 16/10/2008.
- b. Law no. (35) of 16/10/2008 on the Regulation of the Ministry of Culture.
- c. Law no. (36) of 16/10/2008 on Public Institutions Associated with the Ministry of Culture.
- d. Law no. (56) of 27/12/2008 on the Regulation of Art Professions.

## **Second: The current situation**

### **1- Challenges and difficulties**

The road to achieve effective cultural participation in Lebanon remains long. Despite all achievements a, and despite Lebanon's ratification of the international conventions that protect the right to culture and the integration of some relevant provisions in the Lebanese Constitution, the economic crisis has sharply impacted the standard of living of large segments of the Lebanese people. Therefore, intervention is necessary to narrow unequal opportunities, which, in fact, are one of the main reasons leading to the failure to respect and protect this important human right. Considering the political and economic situation in Lebanon, the guarantee of the right to culture doesn't only fall upon the main authority but upon its partners as well.

For example, the book industry is well developed in Lebanon, but the cost of books is still relatively high in the light of difficult economic and social conditions. That is why there are fewer readers in the country, but they are however not illiterate.

This problem gets worse with foreign books, but the support of public libraries may be a reasonable interim solution to this problem. Another problem is the high cost of printing and publishing. This is a challenge to youth as they cannot express their ideas freely nor can they print and publish what they want without outside funding.

As for the media, they are not engaged in the dissemination of culture and knowledge. This is due to the fact that the media do not intentionally introduce cultural content into their programmes. The government has attempted to enforce a law concerning audiovisual media, but it has not been fully observed. Moreover, youth do not frequently have full access to audio and visual media because the culture of democratic deliberative dialogue is not recognized in our society. There aren't groups to discuss local issues and the media has not encouraged this type of forward thinking behavior. Consequently, the opportunities to freely express opinions are rare and ineffective.

Regarding the internet, the right to culture suggests that access to the internet should be free at public schools, universities and libraries. We should note that some private universities currently provide free internet.

In terms of the arts, the number of theaters is very low as many theaters recently closed, and Lebanese rural areas have no theaters. Hence, a lot of people do not enjoy this kind of art as it is only a privilege for the elite, which is contrary to the principle of the right to culture. Furthermore, the shortage in theaters negatively affected many professional theater artists and amateurs and made the job of producers harder. Regarding paintings and fine arts, little attention has been given to this industry. Hours of painting and drawing at schools is of secondary importance and the number of practice hours granted to these classes, is very limited, in addition to the low number of teachers and the adequate equipment that is almost absent. Music, however, is taught

at private institutes and some universities, especially at The Lebanese National Higher Conservatory of Music; but the conservatory itself doesn't have the right budget and therefore, delays the payments of its musicians and teachers.

In terms of the antiquities, cultural tourism constitutes a key element for general tourism in Lebanon. The Directorate General of Antiquities of the Ministry of Culture has initiated archaeological excavations to explore archaeological sites, and maintain heritage structures. It has also established and is managing museums, holding archaeological and historical exhibitions, and combating antiquities smuggling and trafficking. In spite of these efforts, some historical monuments are still neglected or haven't been allocated with adequate investments. Charging Lebanese citizens entrance fees to visit cultural sites and museums constitutes a violation of the right to culture. These national monuments should be made available to all citizens free of charge or at nominal prices. It should be noted that the Ministry of Culture, in coordination with the Heritage Association, offers free admission to archaeological and historical sites during the month of May of each year, in celebration of Heritage Day.

## **2- Official practices**

The Ministry of Culture plays a pivotal role in revitalizing culture to facilitate the guarantee of the right to culture. But like all other government departments and ministries, it has been affected by the economic crisis. The Ministry's budget is low; therefore, it is not as active as it should be and the employees are under motivated. Nevertheless, the Ministry has put in place policies to support various cultural domains. It has reinstated the national cinema, the National Library, the Directorate General of Antiquities as well as a large number of other projects. It has launched policies to support film production, reading, writing and publishing books, and theatrical presentations. However, these ambitious projects desperately remain in need of financial support to reach fruition. It may be appropriate to consider the Ministry as a partner in all cultural activities, to add credibility to these activities and encourage internal and external parties, including municipalities and civil society organizations, to finance these.

Furthermore, the Ministry of Culture developed a policy to support writing and publishing books in order to promote reading. It has also encouraged writing and publishing and helped publishing houses overcome interim economic difficulties. To this end, it purchased and distributed some books to partner with public libraries and encourage the public to read.

For the Ministry of Culture, the revival of the National Library is a priority. Hence, after having sorted and listed the majority of books, the Ministry is currently seeking to rebuild the library with donations from the European Union and Qatar.

Public libraries are among the most important projects that respond to the human right to culture as they allow readers to save the cost of buying their own books.

Having noticed this importance, the Ministry of Culture developed the policy of public reading, supported, developed and established public libraries and reading centers, and organized cultural activities in various regions.

The Ministry of Culture also developed a policy to support and help permanent theaters advance. The policy also supports theater groups and helps them take part in international festivals after evaluating their shows. It also supports children's theater and dance shows. At many times, the Ministry bought and distributed play tickets to students of public schools to enhance the importance of the theater. This is an initiative that was well received by schools and parents alike.

However, this support remains nominal and fails to take this industry to a higher level.

### **Third: Executive measures**

#### **1-The Parliament**

- a. Ratify the UNESCO 2005 Convention on the Promotion and Protection of the Diversity of Cultural Expressions. (ST)
- b. Approve a modern law to protect the tangible cultural heritage of Lebanon. This includes excavations and cultural monuments, as well as combating the illegal trade of antiquities and protecting underwater antiquities. (ST)
- c. Ratify the second protocol of the Hague Convention of 1999. (ST)
- d. Incorporate the provisions of UNESCO's relevant conventions into the national law. (ST)
- e. Revise the control system in Lebanon, particularly the control of art works, to limit such responsibility to courts only. As for the subsequent administrative control, it should be transferred from the General Security to an entity answerable to the Ministry of Culture. Such an entity must comprise intellectuals and lawyers. (MT)

#### **2- The Council of Ministers and public Administrations**

- a. Develop a practical strategy with the various official administrations concerned with the protection of natural, archaeological and cultural sites as listed on UNESCO's World Heritage List (particularly, Wadi Qadisha, Arz El Rab, Tyre, etc.). (ST)
- b. Enforce the Intellectual Property Law in respect of property rights as per the Constitution. (ST)
- c. Urge the media to increase broadcast coverage of cultural events and TV programmes, while observing the Law on Radio and Television Broadcasting (Law no. 382/1994) which binds media to have programmes on culture, and heritage, and local series. (ST)
- d. Incorporate world heritage into educational programmes, as stipulated by section (XI), article (27) of the World Heritage Convention, 1972. This article calls States Parties to "endeavor by all appropriate means, and in particular by educational and information programmes, to strengthen the appreciation and respect by their



- peoples of the cultural and national heritage defined in articles (1) and (2) of the Convention". (MT)
- e. Establish well-funded research centers for the development and expansion of scientific and cultural research. This includes strengthening the role and increasing the budget allocated to the Scientific Research Center. (MT)
  - f. Create a student ID card for intermediate grade students. It motivates students to attend cultural events as it provides them with discounts at exhibitions, theaters, cinemas, cultural festivals and museums. (MT)
  - g. Implement an inclusive educational plan for fine arts, particularly music teaching at schools. (MT)
  - h. Attend to museums, archeological and cultural sites and reduce admission costs for Lebanese nationals. (MT)
  - i. Support the publishing sector, particularly poetry, by purchasing in advance a number of books that will be distributed among regional cultural centers. Ensure Lebanese publishers are present in international book fairs abroad in a common hall. (MT)
  - j. Expedite the construction of the National Library and increase the number of reading and cultural centers in all regions. (MT)

## 15. THE RIGHT TO A HEALTHY ENVIRONMENT

Due to the daily environmental damage and the climate change, the global community, represented by the United Nations and other international institutions, has become aware that environmental protection is a necessity for human survival. Accordingly, states and international organizations are driven to make efforts to develop a legislative action plan stipulating the protection of the environment from any kind of degradation and pollution, and the provision of a safe and stable environment, through the development and the conclusion of international conventions in this regard.

### First: The legal situation

#### 1- International standards

##### a. Conventions and treaties directly protecting the human right to a healthy environment:

- Stockholm Declaration of 1972.
- World Charter for Nature - General Assembly of the United Nations - 27th session of 1983.
- Rio de Janeiro Declaration of 1992.
- General Assembly resolution no. (60/1), the 2005 World Summit Outcome.
- UN General Assembly resolution no. (45/94).
- UN High Commission for Human Rights resolution no. (60/2005).

##### b. Conventions and treaties raising inessentially the issue of the human right to a healthy environment:

- The Basel Convention on the Control of Trans boundary Movements of Hazardous Wastes and Their Disposal, and the Protocol to the Convention.
- The Vienna Convention for the Protection of the Ozone Layer and its Montreal Protocol on Substances that Deplete the Ozone Layer.
- The Convention on Biological Diversity and the Cartagena Protocol on Biosafety.
- The United Nations Framework Convention on Climate Change and Kyoto Protocol.
- The United Nations Convention to Combat Desertification.
- The Stockholm Convention on Persistent Organic Pollutants.
- The Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade.
- The conventions of the Organization for the Prohibition of Chemical Weapons.
- The Convention on Access to Environmental Information - Aarhus Convention.
- The International Labour Organization Convention no. (136) concerning Protection against Hazards of Poisoning Arising from Benzene, 1971.
- The Convention concerning the Protection of the World Cultural and Natural Heritage adopted by UNESCO in 1972.
- The International Labour Organization Convention no. (139) concerning Prevention and Control of Occupational Hazards caused by Carcinogenic Substances and Agents, 1974.

- The International Labour Organization Convention no. (148) concerning the Protection of Workers against Occupational Hazards in the Working Environment Due to Air Pollution, Noise and Vibration, 1977.
- The International Labour Organization Convention no. (162) concerning Safety in the Use of Asbestos, 1986.
- The International Labour Organization Convention no. (170) concerning Safety in the Use of Chemicals at Work, 1990.
- The International Convention on Civil Liability for Oil Pollution Damage, 1992.

## **2- National legislation**

### **The Lebanese Constitution**

The Constitution does not mention the protection of the environment due to two factors. The first is the political situation and the priorities that prevailed at the time when the Constitution was amended. The second is the Lebanese legislator's failure to realize the importance of the protection of the environment in due time.

The importance of drafting a constitutional text on the preservation of the environment would contribute to the observance of all environmental issues. Consequently, legislators would then have paved the way for all subsequent laws to guarantee environmental priorities.

## **3- Ordinary legislation**

### **a. International conventions ratified by Lebanon**

- The Barcelona Convention for the Protection of the Mediterranean Sea Against Pollution, ratified by Decree-Law no. 126 dated 30/6/1977.
- The Montreal Protocol on Substances that Deplete the Ozone Layer, ratified by Law no. (253) dated 31/3/1993.
- The Vienna Convention for the Protection of the Ozone Layer, ratified by Law no. (253) dated 30/3/1993.
- The International Convention for the Prevention of Pollution from Ships, adopted by Lebanon on 24/11/1993.
- The United Nations Convention to Combat Desertification, ratified by Law no. (469) dated 21/12/1994.
- The United Nations Framework Convention on Climate Change, ratified by Law no. (359) dated 11/8/1993.
- The Convention on Biological Diversity, ratified by Law no. (360) dated 11/8/1994.
- The Basel Convention on the Control of Trans-boundary Movements of Hazardous Wastes and Their Disposal, and the Protocol to the Convention, ratified by Law no. (387) dated 21/12/1994.
- The Stockholm Convention on Persistent Organic Pollutants, signed by Lebanon on 22/5/2002.
- The Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade adhered to by Lebanon on 11/2/2007.

## **b. International conventions that have not been ratified by Lebanon**

- The Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade.
- The Conventions of the Organization for the Prohibition of Chemical Weapons.
- The Convention on Access to Environmental Information – Aarhus Convention.

## **c. The Lebanese legal texts**

When studying the Lebanese environmental law, it is noticed that the relevant legal texts are numerous, scattered and diversified. They are not put together into one single code. This actually causes a significant problem, and stands in the way of defining a unified vision for what the environmental law is, defining environmental policies and the roadmap that legislators wanted for the protection of the environment. The risks or disadvantages of such a diversification include the possibility of finding inconsistent or contradictory texts to an extent that could actually obstruct the role and the effectiveness of the law. This could also lead to favoring and emphasizing on one law over the other, leading individuals to remain ignorant with regards to the nature and importance of some other laws.

- Law for the Protection of the Environment no. (444) dated 29/7/2002  
The approval of Law no. 444 dated 29/7/2002 for the Protection of the Environment is one of the most important achievements realized in terms of the protection of the environment. It was established by the National Council for the Environment who plays an advisory role. This Council was created by a decree issued by the Council of Ministers upon the proposal of the Minister of the Environment.
- Law no. 690 dated 26/8/2005 for defining and regulating the duties of the Ministry of Environment  
In order to effectively implement the principles of the Law for the Protection of the Environment, the Parliament approved a new structure for the Ministry of the Environment under Law no. (690) dated 26/8/2005. This law considered the environment a part of public order and established an environmental police to ensure the right of every individual to a healthy environment. It also enshrined the legislative, controlling and guiding role of the Ministry of the Environment, and observed a decentralized administration system by creating regional departments aimed at facilitating the task of citizens.

## **Second: The current situation**

### **1- Challenges and difficulties**

Although the Law for the Protection of the Environment enshrines the right to a healthy environment, many obstacles prevent Lebanon from properly implementing the principles therein, including:

- Public and private sectors' limited knowledge and experience in the field of environmental legislation, which hinders the proper preparation and approval of the texts that would make the environmental principles applicable.

- Limited public involvement in the preparation and adoption of environmental laws and regulations.
- Difficulty to integrate the tasks and responsibilities of the concerned ministries.
- Limited human, technical and financial resources.
- Ineffective sanctions.
- Limited public awareness.

The International Environmental Law is one of the most advanced and developed laws, as the protection of environment is associated with technological development. The more advanced the means, the greater the need to develop environmental legal frameworks that should not be surpassed in order to prevent environmental degradation with dire consequences. Therefore, the most significant challenge for the protection of the environment is the regular need to amend laws and regulations in line with global progress in this regard.

Economic and environmental interests do not always coincide. In fact, they seldom meet. Therefore, it is necessary not to succumb to economic interests, such as to financial pressure exercised by stakeholders avoiding the implementation of environmental regulations or other environmental standards imposed by competent authorities protecting the human right to a healthy environment; and thus preventing aggravated pollution and the negative impact on individuals' health and life.

There is no doubt that the proposed plan, just like any other plan, needs to be consciously accepted. The idea of considering healthy environment a human right is not always evident. However, this issue can be addressed through different levels and concepts primarily, considering the right to a healthy environment a human right could be strange for many; therefore, it is necessary to organize workshops and educational seminars explaining the relationship between the environmental law and human rights.

Hence, it is vital that relevant competent departments and ministries closely cooperate to have their views converged. In addition, the real difficulty is the implementation and enforcement of the protection of the environment as a direct protection to human beings by granting litigants guarantees. Effective environmental laws should be clearly implemented until they are amended in line with the global development of the environmental principles. It is also necessary to enforce article (2) of Law no. (444/2002), and article (5) pertaining to the right of individuals to participate in environmental decisions and projects and to have access to environmental information.

Furthermore, it is necessary to develop a plan in line with environmental requirements, especially in times of war because the plan would act as a system to address environmental emergencies in such times, and thus prevent environmental degradation due to war. It would also safeguard individuals' simplest rights, those provided for in international conventions and in Lebanese laws and regulations.

## **2- Official practices**

The Ministry of Environment is in charge of all environmental issues; and thus is the main authority in charge of developing environmental plans and policies in fulfillment of international commitments that Lebanon is bound by, specifically those related to the protection of the human right to a healthy environment. The work of the Ministry of Environment is meant to complement the provisions of international conventions, namely those related to raising environmental awareness and environmental education. However, it should be noted that the Ministry of Environment needs the support of all Lebanese and international sectors to achieve its objectives and protect the Lebanese citizens' right to a healthy environment.

The application decree of the law defining and regulating the duties of the Ministry of Environment was issued on 15/6/2009 under no. (2275). It regulates and defines the duties, recruitment conditions and some functions of the departments of the Ministry of Environment.

Measures that need to be taken in this context are restricted to the following aspects: legislative, institutional, judicial, technical, financial and environmental.

### **a. The legislative aspect**

The Lebanese government has realized sustainable development could not be achieved without environmental legislation. As the United Nations Environment Programme (UNEP) indicates, only laws and regulations that take into account the unique characteristics of a country can stimulate the environment sector. In this context, and in order to distinguish between the negative effects resulting from the lack of appropriate legislation, and those arising from the failure to effectively implement existing legislation, the current legislation related to the environment was studied thoroughly. The study consisted of five phases and was completed over a span of two years. A book about a new system to be used for issuing and implementing environmental laws in Lebanon was consequently, published. This book has a great value as it urges to accelerate the process of preparing and approving drafts of environmental laws and regulations. It also calls for enhancing work in the environmental sector and facilitating the implementation of effective environmental laws and regulations.

### **b. The Ministry of Environment**

Lebanese citizens should enjoy the right to a healthy environment. This entails the protection of the constituent elements of the environment (water, earth, living organisms and air). In the framework of preserving environmental resources, and exercising the powers it is vested with under Law no. (690/2005) (defining and regulating the duties of the Ministry of Environment), the Ministry of Environment started performing its duties. However, the efficient and effective implementation of these measures to ensure the human right to a healthy environment requires the full involvement of both the private and public sectors.

### **c. The Directorate General of Environment**

The Directorate General of Environment drafted and contributed to the drafting of relevant legislation. Some have been approved while others are still under discussion.

### **Third: Executive measures**

#### **1-The Council of Ministers and public administrations**

- a. Apply the guidance strategy for quarries. Shut down law breaching quarries and oblige the relevant investors to rehabilitate them. (ST)
- b. Promote reforestation and reduce deforestation. (ST)
- c. Implement the provisions of the UN Convention on the Law of the Sea ratified by Lebanon on 5/12/1995, to ensure greater protection of Lebanon marine environment (articles (192), (194), (195) and (196)). (MT)
- d. Enforce the Lebanese legislation. The Lebanese legal system comprises laws that can contribute to the preservation of natural resources. Such laws must be enforced through the involvement of the various sectors concerned. Necessary application decrees must also be issued to implement the provisions of the Law for the Protection of the Environment. Strict sanctions should be imposed to prevent environmental violations and combat environmental organized crimes. (MT)
- e. With regard to environmental awareness (MT)
  - Ensure effective media participation to preserve the human right to a healthy environment.
  - Organize awareness and educational seminars and workshops on the human right to a healthy environment.
  - Organize training sessions for employees in charge of public affairs, especially environmental issues, and on the integration of the environmental laws and human rights.
  - Develop environmental programmes in cooperation with governmental and non-governmental agencies, civil society organizations and the private sector to promote the human right to a healthy environment, subject to Law no. (444/2002).
- f. Maintain the Ministry of Environment's environmental guidance policy to incorporate different environmental concepts into different sectors such as with, civil society, public and private sectors. To this end, the following is needed: (MT)
  - Distributing periodical reports on the progress achieved according to the policy defined.
  - Organizing environmental events in connection to human rights (e.g. Human Rights Day) to clarify the connection existing between human rights and the environment.
  - Launching promotional and advertising programmes on the environment plan.
  - Enhancing partnerships and cooperation with the private sector and developing relevant volunteering programmes.
- g. With regard to finance (MT)
  - Increase the budget of the Ministry of Environment for it to perform its duties

- until it is able to be autonomously funded through natural reserve fees collection and other resources.
- Develop a clear legal framework for the Environment Fund to turn the Ministry of Environment into a self-sufficient public administration that can effectively handle all environment and technical issues. Exert all efforts necessary to get external funding from all local and international partners.
- h. With regard to the implementation of effective regulations (MT)
- Fully and comprehensively implement laws and regulations Grant all individuals the right to resort to official administrations to get all information necessary, learn more about the environmental situation, and resort to judicial authorities, when necessary, in order to fulfill their environmental rights and enforce the implementation of effective laws.
  - Protect public rivers and shores and remove all encroachments for the free reuse of shores and rivers by the public. (MT)
  - Implement the national plan for the management of solid waste and strictly prevent unregulated dumps in valleys, especially landfills. (MT)
  - Develop natural reserves, forests and public parks in accordance with the general regulations of the Land Department in Lebanon. Develop a special law for the protection and management of such spaces. (MT)

## **2-The judiciary**

Enshrine the human right to a healthy environment, primarily by strengthening the institutional capacities of the Lebanese judiciary. Incorporate the course of 'Environmental Law' in the training curriculum of judges at the Judicial Institute. Develop additional training programmes in environmental laws, particularly for public prosecution officers and judges in charge of adjudicating environmental crimes. (MT)



## 16. WOMEN'S RIGHTS

The Beijing Declaration (1995) confirms that the development of women and equality between men and women are human rights and a prerequisite for social justice. Hence, securing women's rights is the only way to build a sustainable, just and developed society.

### First: The legal situation

#### 1- International standards

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted by the United Nations General Assembly in 1979, provides the legal framework and basis for realizing equality between women and men in all aspects of life. Crowning previous special declarations and conventions, CEDAW clearly defines the principle of elimination of all forms of discrimination against women, requires all states parties to fully implement these and thus, condemn all forms of discrimination against women.

Lebanon ratified this Convention by virtue of Law no. (572), dated 24/07/1996, that is seventeen years after it has entered into force. However, it raised some reservations about some of its provisions to the extent that "equality between women and men" became valueless. The reservations enshrined personal status laws that are, in turn, governed by the laws of various religious communities and constitute a form of discrimination against women.

Lebanon adhered to other conventions on women's right. The most important are:

- a. The International Labour Organization Convention no. (45) concerning the Employment of Women on Underground Work in Mines of all Kinds, 1935.
- b. The United Nations Convention on the Political Rights of Women, 1955.
- c. The UNESCO Convention against Discrimination in Education, 1964.
- d. The International Labour Organization Convention concerning Employment Policy, 1964.

To date, it should be noted that Lebanon has failed to ratify many of the international conventions related to women's rights and the elimination of all forms of discrimination against women because of the reservations it raised on the nationality and personal status related issues.

#### 2- National legislation

The Lebanese Constitution does not include any provisions about discrimination against women and enshrines the equality of all individuals before the law, without any discrimination. However, the provisions of this Constitution are not enough to guarantee women's human rights. The Constitution should have included an explicit and clear provision that guarantees the principle of equality between women and men just like many other constitutions in the world.

On the legislative level, Lebanon has taken several relevant measures. It has issued some laws, decrees and decisions for the promotion of women's status in relation to: political rights (1953), equality in inheritance for non-Muslims (1959), the right to choose a nationality (1960), the freedom of movement (1974), the abolishment of birth control sanctioning provisions (1982), the adjustment of the end of service age for men and women in the Social Security Law (1987), the recognition of the eligibility of women to get certificates from the land registry (1993), the recognition of the eligibility of married women to trade without the permission of their husbands (1994), the right of female employees working in the diplomatic field and married to foreigners to continue working (1994) and the eligibility of married women to enter into life insurance contracts (1995).

After many years of struggle and efforts exerted by advocates and civil society activists in the field of women's rights in Lebanon, the Lebanese Parliament abolished old laws and enacted new ones to amend some provisions that discriminate against women.

- a. On 4/8/2011, the Parliament abolished article (562) of the Lebanese Penal Code. By virtue of this abolishment, the murderer of his spouse or one of his ascendants, descendants or his sister no longer benefits from the excuse of mitigation in case he surprises any of them in a witnessed crime of adultery or in a situation of unlawful intercourse and proceeds to kill or injure one of them without deliberation. This was one of the most significant articles which women strove to eliminate because it was related to murder as they described it. It actually allowed the killing of women by persons benefiting from the excuse of exemption (before the amendment of the article in 1998) or the excuse of mitigation (according to the amendment in force since 1999).
- b. Law no. (179), dated 29/8/2011, amended article (9) of the Decree-Law no. (146/1959) related to inheritance duties on all rights and movable or immovable properties. This law aims to establish equality between women and men heirs to benefit from additional reductions when calculating the inheritance duties owed.
- c. Law no. (180), dated 29/8/2011, amended article (31) of the Decree-Law no. (144/1995) related to the Law on the Income Tax. This law aims to establish equality between women and men by allowing Lebanese working women to benefit from a tax reduction on their husband and children under the same conditions as Lebanese working men.

## **Second: The current situation**

### **1- Difficulties and challenges**

Despite the official efforts exerted to establish equality between women and men, no national plan has been developed to translate the objectives sought into executive programmes in which both the State and civil society participate. Although the strengthening of women's status does not raise any opposition among different segments of the Lebanese society and religious communities at the pure theoretical level,, the reality however shows that women, despite their increasing involvement in

education and production, are demeaned and their role is diminished in society during childhood, adolescence and adulthood. The difficulties and challenges that they face can be described as follows: the persistent discrimination against women on the cultural, educational, behavioral, social and media levels, the persistent dependence on customs and traditions, and the marginalization of women in the decision making process. Another problem is the existence of a “negative” legislative stability for two reasons. The first is related to the explicit reservations that Lebanon expressed when it adhered to the Convention on the Elimination of All Forms of Discrimination against Women. The second is related to sectarianism in Lebanon and how it affects internal legislation, notably with regard to the difficulty of issuing a unified civil personal status law despite the existence of a proposed law for an optional personal status system at Parliament.

## **2- Official practices**

The Beijing Conference has its significance in the history of women’s movement. Lebanon, represented by civil society and the State, positively responded to this conference. It established the National Committee for the preparation and participation in the Beijing Conference, and the National Committee for the Follow up of Women’s Issues after the Beijing Conference. It also announced a strategic partnership between the two committees mentioned above and the Regional Women’s Committee. This partnership led to the first Lebanese Women’s National Strategy and the issuance of periodical reports by governmental and non-governmental organizations. Hence, Lebanon did agree to the Beijing Declaration, which calls for States to take initiatives and implement specific measures to eliminate discrimination against women and improve their status in society.

In recent years, Lebanon ceased to be indifferent and started to slightly provide attention to women’s issues. It actually adopted some important official measures whereby in 2005, and for the first time in history, it included in the ministerial statement a special paragraph about women’s issues. It is with this statement that the government undertook to “... focus on women as essential and active partners in public life by providing the appropriate legal environment to enhance their role in the various sectors. (The government) also undertook to seek to integrate the concept of gender in all financial, economic and social policies in accordance with new global concepts in this regard. In addition, the government will fulfill all the obligations it is committed to by virtue of the recommendations of the Beijing World Conference on Women in 1995”. It is to be noted that this change of attitude was clear in subsequent ministerial statements.

The State has also taken some positive procedural measures for the benefit of women, such as integrating the reproductive health system in the international health system. Moreover, some official authorities have begun to address urgent concerns such as the issue of violence against women.

Two official commissions were established to deal with women's rights. The first was the National Commission for Lebanese Women (established by a ministerial decision in 1996), which directly reports to the Council of Ministers. This Commission was officially requested to be responsible for the development of women. It was asked to develop a national strategy, action plans, establish projects, organize activities and do research on women's issues. The second commission was the Woman and Child Parliamentary Committee, established in 2011.

### **Third: Executive measures**

#### **1-The Parliament**

- a. Lift Lebanon's reservations on the Convention on the Elimination of all Forms of Discrimination against Women. (ST)
- b. Ratify the Optional Protocol to the Convention on the Elimination of all Forms of Discrimination against Women (1999). (ST)
- c. Define and amend local laws and regulations which discriminate against women (through a committee composed of members of the commissions mentioned above and a representative of the Administration and Justice Parliamentary Committee). (ST)
- d. Approve the draft law referred to the Parliament on the equality between women and men in social insurance and tax law. Approve the draft law on removing all restrictions imposed on financial assets of wives whose husbands have been declared bankrupt (\*). (ST)
- e. Approve the Law on the Protection of Women from Domestic Violence, which provides for preventive and deterrent punitive measures and issue relevant application decrees. Also, issue application decrees for the Law on the Prohibition of Human Trafficking approved by the Parliament (Law no. (164) dated 1/9/2011), as well as legislation and policies protecting victims of human trafficking. (ST)
- f. Issue a standard optional law for personal status in line with the Convention on the Elimination of all Forms of Discrimination against Women. (MT)
- g. Amend the Nationality Law provisions regarding Lebanese women married to foreign nationals, and their children. (MT)
- h. Invite the Parliamentary Human Rights Committee to cooperate with the United Nations and the public and private sectors to organize educational sessions for the members of the Parliament, officials, teachers and lawyers to raise the awareness on the provisions of the Convention on the Elimination of all Forms of Discrimination against Women, and empower and build women's capacities. (MT)
- i. Enact a law to extend the maternity leave period. (MT)
- j. Enact a law whereby the minor children of a Lebanese mother, who has lost her foreign husband for any reason, are entitled to the Lebanese nationality as a fundamental civil right. (MT)

#### **2-The Council of Ministers and public administrations**

- a. Take special measures (provisional positive measures) such as the implementation

- of the quota system, in order to expedite the establishment of equality in terms of women's participation in decision-making and the government. (ST)
- b. Develop and implement comprehensive programmes to promote and support a culture of gender equality. (MT)
  - c. Emphasize on the special needs of women in the post-war era. Implement UN Security Council's Resolution no. (1325), for the year 2000, on "Women, Peace and Security". (MT)
  - d. Implement socio-economic women empowerment programmes to improve women's economic participation, with special emphasis on rural women. (MT)

## 17. CHILDREN'S RIGHTS

Human rights apply to all age groups and children have the same general human rights as adults, but are particularly vulnerable. Hence, children should also have particular rights that recognize their special need for protection.

Since every child is a member of a family and community, he has rights and responsibilities appropriate to his or her age and stage of development

### **First: The Legal situation**

#### **1- International standards**

Several conventions, recommendations and protocols have been specifically issued to promote children's rights, improve their conditions on the economic, social, cultural, moral and security levels, and strengthen their position in society and the legal framework. Below are the most important conventions and protocols about children.

- a. The Convention on the Rights of the Child (CRC), 1989.
- b. The Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography, 2000.
- c. The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, 2000.
- d. The International Labour Organization Convention no. (138) concerning Minimum Age for Admission to Employment, 2001.
- e. The International Labour Organization Convention no. (182) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 2002.
- f. The Optional Protocol to the Convention on the Rights of the Child on a communications procedure, 2011.

#### **2- National legislation**

On the legislative level, Lebanon made important achievements by ratifying a number of conventions, most importantly: the International Convention on the Rights of the Child; the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the International Labour Organization Convention no. (182) and its recommendation; the International Labour Organization Convention no. (138) and its recommendation; the bilateral judicial conventions between Lebanon and France; and between Lebanon and Canada on judicial cooperation in some family matters.

Lebanon issued a number of laws, decrees and decisions covering various aspects of children's life in the areas of education, employment, social security, health, welfare, protection, disability and juvenile justice. These laws are consistent with relevant international treaties and conventions. They respect the principles of human rights and

contribute to the protection of children and to the provision of a healthy environment and an appropriate standard of living for them.

## **Second: The current situation**

### **1- Challenges and difficulties**

Challenges and difficulties in this regard are numerous. These include: the absence of political decisions, the lack of statistics and clear data, the deterioration of the administrative situation, the financial deficit, the absence of a fruitful cooperation between concerned ministries, the lack of coordination between ministries and private sector institutions, the lack of legal knowledge amongst employees at centers for development services and private sector institutions, the lack of specialized children care institutions; as well as other challenges and difficulties that need to be addressed to ensure a better life for children. It is worth mentioning that public policies are almost nonexistent in Lebanon, although these are supposed to be developed by the State in all fields, so that laws and regulations achieve their objectives. Therefore, it is necessary to build on available opportunities and current progress to promote children's rights in Lebanon.

Lebanon undertook active measures towards improving the situation of children in the country. It approved the law on free compulsory education, ratified International Labour Organization Conventions no. (138) and no. (182), and amended the Labour Law. However, problems do persist. In fact, children do still work, and the Lebanese government is not able to put the above mentioned law into force. Moreover, poverty is one of the main causes of child labour in Lebanon especially in remote areas where the highest rates of child labour exist. It should be noted that children work under difficult and dangerous circumstances, in sectors that are not regulated, such as agriculture, metalworking, crafts, fishing, stone cutting, and tobacco cultivation.

### **2- Official practices**

In compliance with the provisions of the International Convention on the Rights of the Child, Lebanon submitted to the Committee on the Rights of the Child in Geneva its first report in 1994 and the second in 1998 (discussed in 2001-2002). The third report was submitted in 2004 and discussed in 2006 before the Committee, in the presence of the Lebanese delegation comprising delegates from the public and private sectors for the first time. The Committee praised the delegation for such an initiative. During this period, civil organizations submitted one report.

The government established permanent measures to implement the Convention and other international conventions related to children's rights and also resorted to official policies and coordinating entities.

In this framework, the following measures have been taken: the establishment of the Higher Council for Childhood in 1994, the creation of a Parliamentary Committee on

Women and Child Rights in 2000, the creation of the National Steering Committee against Child Labor, the creation of the Commission on the Protection of Children at risk or Children Violating the Law, the establishment of the Ministry of Labour's Unit against Child Labour, and the Department of Juvenile Protection at the Ministry of Justice. Other measures include: the development of a room at the Ministry of Justice equipped with audio and visual devices to listen to children victims of sexual abuse, the launch of a hot line at the Presidential Palace to receive complaints from abused children ,, the incorporation of children's rights into educational curriculums, the organization of training sessions by the Ministry of Development in cooperation with foreign experts, the introduction of a postgraduate degree in Children's Rights at the Lebanese University, and the separation of female minors and adults in prisons and detention facilities.

In addition to the measures above, amendments are still being introduced to children related provisions, particularly the Labour Law, the Penal Code and Juvenile Justice and in compliance with the Convention. However, despite significant official efforts exerted to protect and offer children an appropriate standard of living on the economic, social, cultural and ethical levels (as mentioned above), Lebanon is still not able to legally, fully and actually protect children.

### **Third: Executive measures**

#### **1-The Parliament**

- a. Ratify the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (signed by Lebanon in 2002). (ST)
- b. Ratify the Third Protocol to the Convention on the Rights of the Child on a complaints mechanism for violations of children's rights (2011). (ST)
- c. Continue amending children related provisions until they are in full compliance with the Convention on the Rights of the Child (CRC) and other relevant instruments, based on a comparative study between Lebanese legislation on children and the CRC. Create complete files including the reasons for which existing laws should be amended or new laws issued for the benefit of children. (ST)
- d. Conduct a comparative study between Lebanese laws and the CRC in order to draft a standard law on child rights, as children require special care and legal protection. (MT)
- e. Enact a standard law protecting children's rights, and issue application decrees for any such laws issued. (MT)
- f. Amend the Penal Code, particularly its article (186) therein. This article currently allows parents and teachers to discipline their children according to customary practices. There is an urgent need for a special law to protect children from all forms of violence, particularly domestic violence and physical punishment at school. (MT)
- g. Amend Law no. (422/2002) on Children at Risk or Children Violating the Law in accordance with the provisions and principles of the Convention on the Rights of



the Child and other relevant international conventions. By virtue of the amendment, the age of criminal responsibility should become 12, trials should be confidential, there should be a room at the Ministry of Justice dedicated to the interrogation of juveniles without the use of police stations, judgments rendered in relation to offenses may be appealed and a special security unit dedicated to juveniles should be established; this could be a police unit dedicated to the interrogation of juveniles and to public prosecution. (MT)

- h. Amend the Juveniles Law in line with the principles of the Convention on the Rights of the Child and other relevant conventions. Replace prisons with correctional and rehabilitation facilities. The resort to a correctional facility for the shortest period required is in the best interest of juveniles, because of the harm they suffer from at any institution and that is almost impossible to avoid. (MT)

## **2-The Council of Ministers and public administrations**

- a. Make education free and compulsory for children until the age of 15, in line with the International Labour Organization Convention concerning Minimum Age for Admission to Employment. (ST)
- b. Support the development of the National Strategy and Action Plan for Children (\*) with the involvement of children and youth. Define and prioritize the needs of marginalized and disadvantaged children, like children with disabilities, non-citizens, refugee children, rural children, children without parental care, working children, migrant workers' children and street children. (ST)
- c. Address gaps in the legal and practical protection of refugee children including Palestinians. (MT)
- d. Grant children born to a Lebanese mother and a foreign father the right to have the Lebanese nationality. (MT)
- e. Build institutional capacities by training judges for instance to issue judgments on the basis of the Convention on the Rights of the Child, the International Convention for the Elimination of All Forms of Discrimination against Women, and other similar human rights conventions ratified by Lebanon. (MT)
- f. Support the establishment of systems to offer free counseling and legal services to children. (MT)
- g. Create an Ombudsman for children with necessary financial and human resources. (MT)
- h. Develop a national contingency plan and focus on children since Lebanon is continuously exposed to violations. (MT)
- i. Give utmost priority to early childhood, as it is an important milestone for human development. Provide a healthy education and knowledge environment to help children develop, master knowledge and acquire the skills needed to access such sources of knowledge. This will also help every child understand himself and achieve his full potential. Therefore, there is an urgent need for quality education and standards that define the competence of educators. (MT)
- j. Cooperate with the Ministry of Social Affairs to define the standards and regulations

- governing contracts with child care institutions. Support the family child care programme as an alternative to institutional care and ensure its required funding. (MT)
- k. Approve a health insurance programme based on the compulsory medical card for children whose parents are not covered by Social Security. (MT)
  - l. Protect children from sexual abuse, support psychosocial rehabilitation programmes for sexually abused children, and impose harsher sanctions on perpetrators. (MT)
  - m. Develop permanent coordination mechanisms: enhance the role of the Higher Council for Childhood by increasing its budget and provide technical capacities for strategic development. (MT)
  - n. Conduct a nationwide analysis of the status of children's rights, especially the marginalized/vulnerable children. Regularly publish regularly information about children's status (gender, religion, region, disability, citizenship, etc.). These measures are necessary as the current national progress indicators are unreliable and fail to reflect regional discrepancies or the situation of distinct groups of children in Lebanon. (MT)
  - o. Ensure the regular submission of reports to Human Rights bodies, such as the Convention on the Rights of the Child, the Universal Periodic Review, and the Convention on the Elimination of all Forms of Discrimination against Women. (MT)
  - p. Publish the reports and final observations of the International Committee on the Rights of the Child in Geneva on the periodical official report submitted by Lebanon in order to enable all those who work with children to be informed of these reports, comply with them and contribute to the improvement of the situation of children. (MT)
  - q. Conduct in-depth studies about violence against children, children living in specialized institutions, refugee children and early marriages. (MT)
  - r. Allocate appropriate national and municipal budgets to children. (MT)
  - s. Incorporate the Convention on the Rights of the Child into Lebanon's educational curriculum. (MT)
  - t. Integrate children with disabilities into the official educational system to the maximum extent possible in line with a comprehensive education for all approach (\*). (MT)
  - u. Allow civil organizations, particularly those concerned with child affairs and complying with specific scientific norms, to file civil actions when the rights of children are violated. (MT)
  - v. Ensure the Ministry of Education includes cultural programmes at public and private schools. (MT)
  - w. Involve the media in the enhancement of child rights by providing guidance and orientation programmes and involving children in the making of such programmes. (MT)
  - x. Enhance the role of the Higher Council for Childhood. (MT)
  - y. Protect children from economic exploitation, working on the street, and being traded for illegal adoption. (MT)

- z. Continue to appeal for technical and financial assistance to support the removal of land mines as children are among the most vulnerable groups in the Lebanese society and are always exposed to unexploded ordnances (\*). (MT)

### **3-Lebanese and international civil society organizations**

- a. Ensure children and civil society players participate in the development, execution and allocation of relevant budgets. (ST)
- b. Enhance the role of children and civil society in submitting periodical reports to international human rights bodies. (ST)
- c. Build the capacities of civil servants, including specialists working for and with children (e.g. teachers, psychologists, social workers, health professionals, justice police officers, police officers and lawyers). (ST)
- d. Organize awareness campaigns for families, children and schools on the protection from domestic violence and physical punishment - at schools and homes. (ST)
- e. Train religious authorities on the implementation of the Convention on the Rights of the Child and involve them in national plans due to their influence in the Lebanese society. (ST)
- f. Distribute child friendly copies of the Convention on the Rights of the Child in Arabic to children. (ST)

## 18. THE RIGHTS OF PERSONS WITH DISABILITIES

Persons with disabilities are those persons who suffer from long-term physical, mental, intellectual, or sensual disabilities. The understanding of the concept of “disability” itself is still under developed due to the overlapping of medical, social and human rights views, and because of the social and physical obstacles that prevent persons with disabilities from fully and effectively participating or integrating in society, like other persons. Discrimination against people based on their disabilities is considered a violation of human dignity.

### First: The legal situation

#### 1- International standards

International instruments related to the rights of persons with disabilities can be summarized as follows:

- a. International instruments describing general guiding principles (such as declarations).
- b. Other instruments including binding standards, even if they were only general (such as the two international conventions on civil, political, social, economic, and cultural rights).
- c. Instruments defining special standards related to disabilities or referring to a certain category of persons with disabilities (such as the Convention on the Rights of the Child).
- d. The Declaration on the Rights of Mentally Retarded Persons, 1971.
- e. The Declaration on the Rights of Disabled Persons, 1975.
- f. Convention no. (159) and Recommendation no. (168) concerning Vocational Rehabilitation and Employment (Disabled Persons), 1983
- g. The UN Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care, 1991.
- h. The United Nations Standard Rules on the Equalization of Opportunities for Persons with Disabilities, 1993 (there were 191 rules).
- i. The Recommendations of the Salamanca World Conference on Special Needs Education, 1994.
- j. The International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities, 2006, and its optional protocol.

#### 2- National legislation

Legislative and legal measures in Lebanon fall under two categories of provisions: constitutional provisions, and standard legislation regulating the rights of persons with disabilities in accordance with Law no. (220) on People with Disabilities, 29/5/2000.

##### a. The Lebanese Constitution

Paragraph (c) of the Preamble of the Lebanese Constitution clearly emphasizes on the “equality of rights and duties among all citizens without discrimination”. Its article

(7) states that “all Lebanese shall be equal before the Law (...)”, while article (12) States that “every Lebanese has the right to hold public office, no discrimination being made except on the basis of merit and competence (...)”.

## **b. Ordinary legislation**

Law no. (220) on People with Disabilities was issued on 29/5/2000. It contains some provisions for guaranteeing the rights of persons with disabilities. It provides for granting persons with disabilities personal cards that entitle them to special services and privileges. It also provides for the establishment of a permanent entity at the Ministry of Social Affairs called “the National Committee for the Disabled”. This committee is the decision-making authority in the issues related to persons with disabilities. It is headed by the Minister, and its members include ministry officials, experts appointed by the Minister and elected representatives of persons with disabilities, disabled associations and care centers. However, it does not have any executive powers as these are only vested with the Ministry.

In general, and theoretically speaking, Law no. (220/2000) is advanced if compared to previous laws on people with disabilities in Lebanon. It is founded on a human rights approach rather than sympathy towards persons with disabilities. It also guarantees some fundamental rights and includes elaborate provisions that ensure the integration of persons with disabilities in some areas. Nevertheless, that Law still needs to be reviewed as it does not include all rights of persons with disabilities and encourages the isolation of such persons in some areas. That is why it should be amended to be in line with the rights, policies, and commitments provided for by the International Convention on the Rights of Persons with Disabilities.

## **Second: The current situation**

### **1- Official practices**

Despite some positive improvements in the field of the rights of persons with disabilities, mainly the issuance of a very important law in the year 2000, the rights of persons with disabilities are still neglected in general. The following summarizes the official practices and measures which have been taken in order to secure the rights of persons with disabilities:

A law is being drafted to grant persons with disabilities facilities for housing loans, and a decree has been issued binding new buildings to ensure accessibility for persons with disabilities. In the field of education, the Ministry of Education has announced a national plan to integrate persons with disabilities, and called for the establishment of a committee to determine the persons who should be exempted from public examinations until a decree is issued to regulate public examinations for people with special needs. Moreover, the Ministry of Social Affairs’ center for the disabled has identified, in recent years, the learning difficulties that often result in the delay of persons with disabilities, as it is the only official body authorized to examine such

cases and their causes. The Council for Development and Reconstruction (CDR) has also observed the requirements of the disabled at public schools that were built after the issuance of Law no. (220/2000).

In 1998, the government established the National Demining Office within the Lebanese army as land mines cause many injuries and disabilities, especially in the South and Beqaa areas previously occupied by Israel.

Despite the poor human and financial resources, the Ministry of Social Affairs seeks to enforce the provisions of Law no. (220/2000) to assist public and private institutions in fulfilling their obligations and issue any regulations supporting the implementation of that law. The Ministry also follows up on the provision of financial aid to institutions that provide care services for persons with disabilities.

## **2- Difficulties and challenges**

The greatest challenge is that Law no. (220) does not include all fundamental rights for persons with disabilities. For instance, it does not include the right of children with disabilities to family care without being separated from their families, the rights of persons with disabilities to integrate and participate in civil society without being isolated for any reason whatsoever, the right of persons with disabilities to education at public schools without being prohibited from enrolling into such schools because of their disability, and other fundamental human rights enshrined by the International Convention on the Rights of Persons with Disabilities. As for the rights stipulated in Law no. (220), they are at the bottom of the social priorities list as they are not included in comprehensive and effective social strategic plans. Furthermore, the important social reforms proposed by the Ministry of Social Affairs are not included in the Ministry's comprehensive social policy. Furthermore, the Ministry's allocations from the budget are very low.

Despite the remarkable legislative and administrative improvements, reality still proves the existence of many difficulties in the field of the rights of persons with disabilities. These include the following:

- a. Regarding Section III of Law no. (220/2000) on the right of people with disabilities to receive health and rehabilitation services, free medical care is still not available for non-insured persons with disabilities as stipulated by the law. As for hospitalization which should be fully provided by the Ministry of Health, it is still not observed as most hospitals do not accept 'disabled cards'. Furthermore, awareness campaigns and dissemination of relevant information as required by the law are almost inexistent. However, private associations and international organizations launch awareness campaigns targeted to certain groups such as social workers and parents, school and university teachers, doctors, and public officers, with the use of brochures and through various media.
- b. Regarding Section IV of the law on the accessibility of the disabled, some general provisions have not been considered yet or implemented. No action has been put

- into effect to make existing buildings, including public facilities, easily accessible for persons with disabilities.
- c. Regarding Section V of the law on transportation and parking, apart from a few exceptions, there is no tangible progress with regard to public transportation and parking. In fact, parking places have no parking lots dedicated to the disabled. Furthermore, people in general do not respect such parking lots or lanes, if there were any. No action has been taken to improve, rebuild or rehabilitate roads and sidewalks in response to the needs of the disabled. Finally roads are free of audio signals.
  - d. Regarding Section VI of the law on the right to housing, no tangible measures have been implemented except for the law that facilitates granting housing loans to married couples only and not to single persons.
  - e. No tangible action has been taken in observance of Section VIII of the law on the right to work. Private corporations do not hire persons with disabilities (the law provides for the employment of at least 3% of the number of employees if the corporation has more than 60 employees, and 1 disabled person if the number of employees is between 30 and 60). Furthermore, the public sector itself doesn't observe the proportion of 3%. Last but not least, although the National Employment Office role is to rehabilitate persons with disabilities professionally and introduce them in the labour market, it fails to do so in practice.
  - f. As for tax provisions, persons with disabilities have been granted some tax and fee exemptions, such as municipal taxes, car registration fees, customs duties when purchasing a new car. However, this registration fee is due when the disabled wants to sell his car; which means that the disabled is only exempted from the registration fee and not customs duties that are only deferred.
  - g. As for problems related to Section VII of Law no. (220) on the rights of persons with disabilities to education; the public education system still excludes persons with disabilities. However, some initiatives have been launched by competent associations running special programmes to integrate some students in public schools. Private schools run similar initiatives to educate persons with disabilities but at high costs. The tuition fee is solely borne by the parents of the disabled. Therefore, education for persons with disabilities in Lebanon is limited to special programmes provided by disabled care institutions. These institutions and their educational programmes are not part of the public education system nor are they under the supervision of the Ministry of Education. They are supervised by the Ministry of Social Affairs; which explains why illiteracy and unemployment rates among persons with disabilities are very high.
  - h. As for participation in public affairs, the right of persons with disabilities to run for elections and vote is observed by Law no. (220/2000). The draft law presented by the committee of former minister Fouad Boutros, the Electoral Law no. (25/2008), the application Decree no. (2214/2009), and the draft law presented by Minister Ziad Baroud in 2010. The Minister of Interior issued nine binding circulars for governors and mayors, encouraging them to implement the law to facilitate the

voting process, and called on municipalities to ensure the best facilities in this regard. Nevertheless, persons with disabilities are still marginalized and excluded during elections, and their rights are seriously violated. The main obstacles that persons with disabilities encounter during voting are that polling stations in Lebanon are not adequately equipped, the participation of persons with disabilities is not facilitated, lists of candidates are not adapted to the needs of persons with disabilities and there are no instructions or illustrations available to persons with mental or hearing disabilities.

### **Third: Executive measures**

#### **1-The Parliament**

- a. Ratify the Convention on the Rights of Persons with Disabilities, signed by Lebanon in 2007. Accede to its optional protocol and take all necessary legislative and administrative measures to incorporate the rights enshrined therein into the Lebanese law (\*). (ST)
- b. Amend the law on the creation of the National Committee for Persons with Disabilities in order for it to include other main ministries, and for the Ministry of Social Affairs not to represent one third of the Committee's members. The Committee should not be presided by the Minister of Social Affairs and should represent persons with disabilities through associations concerned with such persons as per the international conventions. (ST)
- c. Accede to the Anti-Personnel Mine Ban Convention (Ottawa Treaty). Complete demining activities in Lebanon, particularly in the southern regions evacuated by Israel, and cooperate with UN agencies for that purpose. (ST)
- d. Review and amend Law no. (220) or issue a new law that guarantees all rights, defines national policies for the enforcement of such rights, and abrogates the provisions of Law no. (220) that contradict the fundamental rights and policies enshrined in the Convention on the Rights of Persons with Disabilities. (MT)
- e. Create and enact a regulatory legislation for an independent national commission, or a relevant department within a national commission, for human rights. The role of this commission is to enforce and protect the rights of persons with disabilities. (MT)

#### **2-The Council of Ministers and public administrations**

- a. Call for the Ministry of Social Affairs to adopt a social integration policy. Prepare a strategic plan for the realization of integration in the family and local community. Allocate a budget for the implementation of the plan and support programmes targeting social integration. (ST)
- b. Allocate funds from the Ministry of Education budget to implement the strategic plan for the integration of the disabled in public schools. To this end, it is necessary to prepare teachers, enhance the culture of integration, avoid discrimination and respect differences at schools, and adapt facilities and courses to the needs of the disabled. (ST)



- c. Incorporate the culture of human rights, nondiscrimination, the respect of differences and the respect of dignity and humanity in school curriculums. (ST)
- d. Oblige all governmental and legislative authorities to involve disabled persons' associations, as sole representatives of persons with disabilities, in the planning process of disability issues. This includes drafting laws, decrees and strategic plans in all fields. (ST)
- e. Conduct a comprehensive and objective survey to identify the number, needs and capacities of persons with disabilities. The aim of this process is to define programmes that are appropriate for them in all fields including education, vocational rehabilitation, employment, etc. It also aims to define policies, measures and interventions to realize integration on the institutional, regulatory and cultural levels. (MT).
- f. Request the National Employment Office to provide necessary training for persons with disabilities, keeping in mind labour market needs while working to realize full labour market integration on the institutional, regulative and cultural levels. (MT)
- g. Encourage corporations to recruit persons with disabilities and offer the former incentives and advice to employ such persons. The purpose of this initiative is to assist these corporations in not considering the employment of persons with disabilities a sanction which can be avoided by paying a fine.. (MT)
- h. Request public administrations and municipalities, each within its own competence, to observe accessibility measures at all public places and facilities. (MT)
- i. Organize awareness programmes and campaigns for the public, and for the public and private sectors, to shed the light on the integration norms required in every sector. Such programmes and campaigns are to be led by the Ministry of Social Affairs in cooperation with non-governmental organizations. (MT)
- j. Organize a media campaign to promote the culture and concepts of integration, the respect of human rights and dignity of persons with disabilities. Launch awareness campaigns targeting employees at media institutions, prior to such activities. Oblige "Tele-Liban" and private television channels to introduce sign language interpretation of news bulletins and encourage private media institutions to use the same for their programmes. (MT)
- k. Allocate a portion of the budget of every ministry to enforce the rights of persons with disabilities in its own sector. Implement necessary plans and programmes to realize integration policies and secure specialized services. (MT)
- l. Request all ministries concerned (Ministries of Public Works, Interior and Municipalities, Education and Social Affairs) to make all polling stations accessible to persons with disabilities, according to practical studies and the minimum integration standards prescribed in Section IV of Law no. (220/2000). Develop integration standards to include visual, hearing and mental impairments. Therefore, article (92) of the Parliamentary Elections Law no. (25/2008) and article (83) of the Municipal Elections Law must be amended to protect the rights of persons with disabilities and enable them to participate freely and independently in elections, as candidates, representatives of candidates, voters, and members of polling station committees. (MT)

- m. Observe health and prevention standards in all medical and treatment facilities, and train medical and nursing staff. (MT)
- n. Oblige any legislative, governmental or non-governmental body to observe the following general principles when approving or executing issues related to persons with disabilities: non-discrimination, the respect of human dignity, equal opportunities, full and effective participation, accessibility and respect of differences as part of human diversity. (MT)

### **3-The judiciary**

Impose severe sanctions upon crimes of sexual abuse or exploitation of persons with disabilities, particularly when disabilities prevent these persons from defending themselves. (MT)

## 19. THE RIGHTS OF MIGRANT WORKERS

Migrant workers in Lebanon are foreign workers who come from different countries, namely Asia and Africa, looking for job opportunities and earning a living. Unlike asylum seekers and illegal migrants, they legally come to Lebanon under employment contracts facilitated by recruitment agencies either in their home countries or in Lebanon. After this process, they are given residence and work permits.

The population of Lebanon is more than 4 million, and there are roughly 200,000 migrant domestic workers. These are mostly women and they primarily come from Ethiopia, the Philippines, Bangladesh, Sri Lanka and Nepal. Other migrant workers are employed as cleaners and in other sectors of the economy.

### **First: The legal situation**

#### **1- International standards**

Many conventions, declarations, and protocols issued include direct or indirect provisions that respect, protect and improve the legal, economic and social situation of migrant workers. Lebanon adhered to many of these such as the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, the Workplace Injury Management and Workers Compensation Act, the Equality of Treatment Convention, the Convention concerning Forced or Compulsory Labour, the Convention concerning the Application of the Principles of the Right to Organize and to Bargain Collectively, the Convention concerning Equal Remuneration for Men and Women Workers for Work of Equal Value, the Abolition of Forced Labour Convention, the Discrimination (Employment and Occupation) Convention, and the Employment Policy Convention. Lebanon also ratified many bilateral agreements with regard to migrant workers.

Nevertheless, Lebanon still has not ratified key conventions, namely:

- a. The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families without discrimination on the basis of gender, race, language, religion, color, political views, ethnic or social origin, nationality, age, economic situation, or any other status, 1975.
- b. The International Labour Organization Convention no. (181) concerning Private Employment Agencies.
- c. The International Labour Organization recommendation concerning Migrant Workers, 1949.

## **2- National legislation**

The employment of legal migrant workers in Lebanon is governed by a number of provisions, regulations and laws as follows:

- a. A great part of the Lebanese Labour Law, especially Decree no. (17561) dated 18/6/1964 and its amendments, regulating the employment of migrant workers. This law has excluded Lebanese and foreign domestic servants in its paragraph (1) of article (7).
- b. The Law Regulating the Entry and Stay of Foreigners in Lebanon and their Exit from the Country, dated 10/7/1962.
- c. The Code of Obligations and Contracts, which provides for the submission of foreign workers to their employers, since the contract is governed by the principle of the freedom of contract, not the Labour Law.
- d. Bilateral international agreements providing for reciprocal treatment.
- e. International conventions ratified by Lebanon.

The status of illegal migrants is governed by procedural laws and regulations related to people who enter or work in Lebanon illegally, irregularly, or in a way that is not conform to reality. It is also governed by bilateral agreements signed by Lebanon with other countries - such as the bilateral agreement between Lebanon and Egypt aiming at regulating the status of Egyptians who secretly entered to Lebanon – and that usually benefit similar migrants. Another example is the bilateral agreements between Lebanon and Iraq and Sudan, aiming at the release of Sudanese and Iraqi refugees in case it is found that they are tortured in their home countries.

## **Second: The current situation**

### **1- Difficulties and challenges**

Migrant workers in Lebanon are divided to legal and illegal workers. Legal migrants have clear, legal contracts that define their job descriptions, salaries and employer. The legal migrant worker gets his leave as provided by the Ministry of Labour, a work permit from the Ministry of Labour and a residence permit from the Directorate General of General Security. His relationship with his employer is governed by specified official and legal regulations and decisions.

Illegal migrant workers cannot benefit from the aforementioned provisions. They may be subject to certain pressure that could sometimes reach exploitation and material and moral blackmail.

The fundamental rights of many migrant workers in Lebanon are seriously violated, especially in terms of work conditions. This includes low wages, long working hours without enough breaks, and no weekly rest. Migrant workers are also subject to inhuman treatment including beating, torture, abuse, sexual assault, and other demeaning treatment such as passport and ID card seizure, as well as women and children trafficking in some cases. In addition, female domestic workers are subject to the sponsorship system that limits their rights and freedoms to a great extent.

From a legal perspective, the greatest difficulties arise from Lebanon's failure to ratify some international conventions on migrant workers, and the lack of a special law that protects foreign or migrant workers. Difficulties also result from the lack of comprehensive programmes and specific policies to prevent and control human trafficking or some of its aspects and prevent workers' exploitation, the failure to pay workers' wages or provide irregular the payment, the migrants' ignorance of the official and civil bodies they can contact in case of dispute, the failure to allow migrant workers to establish their own syndicates and to grant them the right to join Lebanese syndicates and associations, in addition to the lack of offices where migrants can submit complaints and report assaults and exploitation cases. Furthermore, many female migrant domestic workers are not well treated by their recruitment agencies.

## **2- Official practices**

Newly introduced improvements include a decision by the Minister of Labour in 2009 defining new provisions for standard insurance contracts to protect foreign workers. Currently, the enactment of a new law on domestic workers is under discussion. It aims at granting domestic workers annual vacations, and at cooperating with social workers to inspect their living and working conditions. Furthermore, in 2005, the National Steering Committee (consisting of representatives from the Directorate General of General Security, the Ministry of Social Affairs, the Ministry of Labor, non-governmental organizations, the International Labour Organization, the Regional Office of the High Commissioner for Human Rights in Beirut, and some home country embassies) required the use of a standard employment contract for domestic workers. It is a contract that clarifies their rights and obligations towards their employers.

The Directorate General of General Security conducts regular inspections to assess the situation of all foreign workers. It also coordinates with their embassies if necessary, and applies strict measures in case they are mistreated in any way. The Directorate General ensures immediate investigation of all torture, trafficking, abuse or other claims. It also prevents the transference of foreign workers from one employer to another, and has created a database including names and addresses of employers, names of domestic and migrant workers in Lebanon.

Noteworthy is the contribution of the society in this regard. Civil society players contributed to the establishment of various committees and associations concerned with the situation of migrant workers. These include the "Pastoral Care for Afro-Asian Migrants" (1997), and the "Sri Lankan Welfare Association" (1999). Furthermore, Caritas Lebanon undertook to assist at risk refugees, asylum seekers and migrants through their Migrant Center, since 1994. Caritas Lebanon Migrant Center has even published a handbook about Lebanese and foreigners' rights and obligations in addition to guidelines. The handbook started to be distributed at the airport to newly arriving migrant workers in coordination with the Directorate General of General Security to facilitate their adaption to the Lebanese community and to prevent their exploitation.

### **Third: Executive measures**

The current situation requires comprehensive reforms as well as necessary measures to protect migrant workers. It also requires finding the right balance between labour market opportunities and the employment of migrant workers in order to have legal and balanced working conditions that both the State and civil society should offer in terms of rights, obligations and social protection. Such measures should be taken into consideration in the long and short terms and should constitute a comprehensive action plan.

#### **1-The Parliament**

- a. Enact a law to regulate recruitment agencies. Define employment fees and hold employers accountable for employment contract breaches. Continuously monitor such agencies. (ST)
- b. Sign the International Convention on the Protection of all Migrant Workers and Members of their Families and other relevant International Labour Organization conventions concerning migrant workers and decent working conditions for domestic workers. (ST)
- c. Amend the Labour Law as follows: (ST)
  - Amend paragraph (3) of article (59) so that migrant workers enjoy the same rights as Lebanese.
  - Allow migrant workers to benefit from social security compensations through a fund created especially for them under the supervision of the National Social Security Fund.
  - Abrogate the sponsorship system and replace it with one that observes human rights and ensures that a female domestic worker is independent from the employer.
- d. Sign bilateral or multilateral agreements with countries that send out large numbers of migrant workers in order for employment contracts to be standardized and reciprocally recognized. (MT)

#### **2- The Council of Ministers and public administrations**

- a. Request the Ministry of Labour to establish a national committee composed of all parties concerned with migrant workers. The primary assignment of this committee is to develop a comprehensive national strategy on the situation of migrant workers. The strategy should also define Lebanon's final stance towards foreign workers and migrants. It should define the intellectual, fundamental, cultural, legal and legislative frameworks for this matter. The committee should also define strategic plans for migrant workers in Lebanon, develop subsequent interim policies, and ensure coordination and cooperation among all administrations and bodies concerned. Finally, this committee should enhance the role of the steering committee established in 2005. (ST)
- b. Establish a special authority under the supervision of the Ministry of Labour to monitor the working conditions of female migrant workers. (MT)

- c. Request the Ministry of Labour and civil society organizations to launch recurrent media campaigns (written and audiovisual) on the rights of migrant workers in order to raise awareness on the conditions of migrant workers no matter what their job is. Such endeavors should be based upon a human rights perspective and the campaigns should include the publication of booklets on the rights of workers and obligations of employers. It is also necessary to specify awareness raising days for migrant workers' rights. (MT)

## 20. THE SOCIAL AND ECONOMIC RIGHTS OF NON-PALESTINIAN REFUGEES

Refugees covered by this study are either recognized as refugees by the United Nations High Commissioner for Refugees (UNHCR), or have at least applied before the UNHCR for asylum to receive such recognition. The largest segment of non-Palestinian refugees and asylum seekers in Lebanon are Iraqis, followed by Sudanese. The remaining refugees are from various nationalities, mainly Iranians, Syrians, Somalis, Asians and Africans. Most of these people come from countries that suffer from armed conflicts, civil wars, or systematic violations of human rights. They usually pass through other countries before they seek asylum in Lebanon.

### First: The legal situation

The Preamble of the Lebanese Constitution enshrines the Universal Declaration of Human Rights which contains an explicit article stating that everyone has the right to seek and enjoy asylum from persecution in other countries. Thus, this right has a constitutional value. Lebanon is also committed to the provisions of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment which states, in article (3) that no State Party shall expel, return ("refouler"), or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subject to torture. This fundamental principle became an international custom that applies to all countries, regardless of whether or not they have signed conventions related to this issue. This principle "is increasingly gaining the jus cogens character in international law"<sup>30</sup>.

Lebanon is not a party to the 1951 Convention relating to the Status of Refugees and has no legal comprehensive framework that safeguards refugees and asylum seekers. The Lebanese law acknowledges the right of a foreigner "whose life or freedom is in danger for political reasons" to seek asylum in Lebanon<sup>31</sup>. However, the Lebanese law includes limited provisions that relate to asylum. Law of 1962 regulating the Entry and Stay of Foreigners in Lebanon and their Exit from the Country (Foreigners Law) endorsed a number of articles that are exclusively related to political asylum. However, the provisions are imprecise and do not include a clear definition of who is considered a refugee or what are the grounds for asylum. They provide for a mechanism that has not yet been enforced in Lebanon<sup>32</sup> as the government has left this full responsibility to the United Nations High Commissioner for Refugees (UNHCR) without accepting the effects of such responsibility.

The UNHCR registers asylum applications and determines the refugee status. Accordingly, Lebanon considers that UNHCR is responsible for these refugees as stated in the memorandum of understanding signed in 2003 between UNHCR and

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30 The Executive Committee of the United Nations High Commissioner for Refugees, Resolution No. 25 (32).

31 The Law Regulating the Entry and Stay of Foreigners in Lebanon and their Exit from the Country, Official Gazette No. (28/1962), entered into force on 10/7/1962, article (26).

32 The Law Regulating the Entry and Stay of Foreigners in Lebanon and their Exit from the Country, articles 26-31



Lebanese authorities represented by the Directorate General of General Security. The memorandum of understanding was issued by Decree no. (11262) and signed by the President of Lebanon, pursuant to article 52 of the Constitution which is related to international treaties. Hence, the memorandum of understanding is deemed as an international law. However, it is filled with gaps; which is why it does not guarantee the minimum rights of refugees, most importantly their legal status in Lebanon.

## **Second: The current situation**

There are no accurate statistics for non-Palestinian refugees in Lebanon. Every year, the United Nations High Commissioner for Refugees (UNHCR) publishes statistics about refugees and asylum seekers in Lebanon. According to statistics for the year 2010, the UNHCR records show that there are 10,050 non-Palestinian refugees, and 80% of these are Iraqi nationals.<sup>33</sup> However, UNHCR's data is limited to those persons who are officially registered with the organization and do not include asylum seekers with pending applications, or those persons whose applications have been rejected and are still in Lebanon.

The United Nations High Commissioner for Refugees (UNHCR) helps many refugees, if not all of them, to resettle in a third country. However, the final decision in this regard depends on these third countries. This requires negotiations with such countries to increase the number of admissions and accelerate the resettlement process. Sometimes, the process takes several months if not a full year. Since 2007, the number of refugees resettled from Lebanon has increased. While approximately 2,000 refugees were resettled in 2008, more than 2,500 were resettled in 2009.

The main problem faced by non-Palestinian refugees is that the refugee status is usually determined by the United Nations High Commissioner for Refugees (UNHCR). Yet, this status has no legal effect in the Lebanese law which does not include any provisions about this category of refugees. Therefore, persons may be granted the refugee status but do not have the legal personality and remain illegal in Lebanese territories.

The Lebanese government treats this group of refugees like any other foreigners without taking their particularity into consideration. It makes them subject to the provisions of Law of 1962 regulating the Entry and Stay of Foreigners in Lebanon and their Exit from the Country. Since most of the refugees escape persecution or violence in their countries, they often enter the territory of the hosting country illegally. Because they entered the country illegally, or legally but do not obtain any legal status after the expiry of their visas; refugees and asylum seekers in Lebanon have no valid legal status. Therefore, they are not offered any social or economic protection; which makes them vulnerable to discrimination and exploitation at work, and deprived of basic

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33 The United Nations High Commissioner for Refugees, Lebanon page, available at <http://www.unhcr.org/cgi-bin/texis/vtx/page?page=49e486676>

health care and education services. Moreover, they might be arrested for not having residence papers in Lebanon. Afterwards, they would be subject to extended arbitrary detention in an attempt to limit their number or prevent other asylum and protection seekers from coming to Lebanon. They are subject to extended arbitrary detention without any legal cause, and those recognized by the High Commissioner for Refugees are subject to forced deportation. This practice violates the Lebanese effective laws on detention, arrest, and international human rights. The Lebanese judiciary explicitly considers these acts as the State violation of international and Lebanese laws. In 2009 and 2010, more than 17 judicial orders were issued to condemn the State violation of personal freedoms by detaining foreigners after having served their sentences.

Since the beginning of 2007, the Lebanese judiciary has started to improve its treatment of illegal aliens. It sought to protect personal freedom, eliminate expulsion from the country and stop the forced deportation of refugees or asylum seekers who are registered with the High Commissioner for Refugees or those who might be subject to torture or danger upon return to their home country.

Recently, some improvements have been introduced to the file of non-Palestinian refugees. A ministerial committee was established on 14/4/2010. It was composed of the Ministers of Interior, Foreign Affairs, Justice, Labor, and Social Affairs. Its mission is to study the deportation of foreigners arrested for different crimes after the completion of their sentences, and submit, to the Council of Ministers, suggestions to solve such a problem legislatively, regulatory and procedurally. It appears that this committee has also widened its scope of work to include the suggestion of solutions for illegal foreigners and refugees.

Given that the current official policy states that "Lebanon is not a permanent asylum country", the resettlement to a third country remains the only solution for non-Palestinian refugees in Lebanon. The other obvious option is their return to their home countries, safely and with dignity, when possible. The United States of America, Australia, Canada and some Scandinavian countries are the main countries that have resettlement programmes for refugees in Lebanon.

### **Third: Executive measures**

#### **1-The Parliament**

- a. Reform Lebanon's asylum laws according to its international obligations regarding refugees and asylum. (ST)
- b. Adhere to the 1951 Convention relating to the Status of Refugees and its optional protocol. Ensure the national implementation of these instruments (\*). Lebanon may still express reservations about this Convention considering the fact that it is not a permanent asylum country; thus, it cannot consider the settlement or integration of asylum seekers an obligation. (ST)

- c. Enact a new asylum law that takes into consideration the special situation of Lebanon in line with the country's international obligations and international standards. The law must provide for a national system to receive, study and take appropriate decisions regarding asylum applications. (MT)

## **2-The Council of Ministers and public administrations**

- a. Revise the memorandum of understanding (MoU) signed between the United Nations High Commissioner for Refugees (UNHCR) and the Lebanese authorities, represented by the Ministries of Interior and Foreign Affairs, in order for it to be in conformity with international standards. In particular, the MoU should include an explicit commitment to abide by the principle of non-refoulement and the abstention from detaining any asylum seeker or eligible asylum applicant on charges of illegal entry to or residence in the country. However, all asylum seekers may be prosecuted for having breached the penal code. In such a case, and in order to maintain security, they are treated like any other foreigner when deciding on their residence permit, in case they committed outrageous crimes. The same procedures apply in case they committed outrageous crimes in their home countries before asking for asylum. Aside from these exceptions, the refugees' residence restrictions must be removed and the government should be cooperative in helping them resettle in a third safe country. (ST).
- b. Request courts and detention authorities to refrain from detaining any person without legal justifications and observe procedural guarantees against arbitrary detention and return. Adopt a human rights based approach in all policies, including those pertaining to security. (ST)
- c. Seek international assistance for the provision of basic services to refugees. Maintain efforts to get international assistance and technical advice to address pressure arising from receiving and hosting refugees, and strengthen cooperation with relevant international organizations in this regard (\*). (ST)
- d. Provide refugees and asylum seekers with appropriate health care services through the Ministry of Health, and cooperate with the international community to fund or co-fund such services. (MT)
- e. Facilitate access of the concerned people to temporary residence and grant them work permits while their asylum application is under review. (MT)

## **3- The judiciary**

Create a standing authority that serves as a common judicial, political and security agency to continuously coordinate with the United Nations High Commissioner for Refugees to provide permanent protection and durable solutions for refugees. (ST)

## 21. THE SOCIAL AND ECONOMIC RIGHTS OF PALESTINIAN REFUGEES

Palestinian refugees constitute 10% of the total population in Lebanon. Although there are no accurate and reliable figures for the number of Palestinian refugees in Lebanon, Palestinian refugees can be divided into three categories:

1. Palestinian refugees registered with the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA)<sup>34</sup>, and the Directorate General of Political and Refugees Affairs<sup>35</sup>. These are the main category of Palestinian refugees in Lebanon, and are usually called “the 1948 refugees”.
2. Palestinian refugees registered only with the Directorate General of Political and Refugees Affairs but not with UNRWA<sup>36</sup>. They are usually called “the 1967 refugees”.
3. Palestinian refugees who are not registered with any of the above mentioned bodies and thus, have no identification papers.

### First: The legal situation

#### 1- International standards

Palestinian refugees’ hosting countries and concerned international organizations share the mutual responsibility of protecting and safeguarding Palestinian refugees since they cannot resort to the authorities of their countries for protection. That is why their situation is particular.

Palestinian refugees have the privilege of a special international protection system. The system includes the United Nations Conciliation Commission for Palestine, established by the UN General Assembly resolution no. (194), to find a permanent solution for Palestinian refugees, and also to determine an estimate for the value of their properties. It also includes the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), considered a relief agency, whose mandate is to offer Palestinian refugees education and health services as well as other fundamental economic and social rights. There is also the United Nations High Commissioner for Refugees (UNHCR) who is dedicated to Palestinian refugees living in areas beyond UNRWA’s field of operations.

Regionally, the League of Arab States endorsed the 1992 Declaration on the Protection of Refugees and Displaced Persons in the Arab World. This declaration grants refugees and displaced persons protection, but it is not binding. In addition, the Casablanca Protocol of 1965 for the Treatment of Palestinians in Arab States was signed by Lebanon with some reservations in 1966<sup>37</sup>

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34 According to UNRWA statistics, 455,000 persons have been registered until June 2010.

35 The number of Palestinian refugees registered with the Directorate General of Political and Refugee Affairs is more than the number of refugees registered with the UNRWA by 35,000 people according to current estimations.

36 The UNRWA refused to register these refugees because they do not meet registration conditions. They were either registered in other territories before coming to Lebanon, or didn’t apply for registration.

37 With regard to the right to work, the following expression was added: “as allowed by the social and economic situation in Lebanon”. With regard to the right to exit and return to Lebanon, the following expression was added: “like the Lebanese and within the applicable laws and regulations”. With regard to the right to enter the Lebanese territories, the following expression was added: “the right to enter the Lebanese territories requires the obtainment of a visa by the competent Lebanese authorities”.

## 2- National legislation

- a. Decree-Law no. (11657), of 26/4/1948, by virtue of which the Central Committee for Refugee Affairs (CCRA) was established. Article (1) of this Decree-Law provided for the creation of a central committee and regional committees in the governorates to count the number of refugees coming to Lebanon, and secure their lodging, living, and protection.
- b. Decree-Law no. (42), of 31/3/1959, by virtue of which the Department of Palestinian Refugees' Affairs under the Ministry of Interior and Municipalities was created to take care of Palestinian refugees.
- c. Decree no. (927), of 13/3/1959, which defined the duties of the Department of Palestinian Refugees' Affairs. These include: supporting, accommodating, educating and taking care of the health and social affairs of Palestinian Refugees in coordination with UNRWA; preparing and referring passport applications to the General Security; regulating the personal status of refugees; determining camps locations; renting and acquiring necessary properties for refugees, and granting refugees residence transfer permits to move from one camp to another.
- d. Decree no. (3909), of 26/4/1960, by virtue of which the High Commission for the Palestinian Refugee Affairs was created under the supervision of the Ministry of Foreign Affairs and Emigrants. The Commission's mission is to handle Palestinian refugees' affairs, follow up on their development in the world and find ways to deal with Israeli aggressions.
- e. Decree no. (4082), of 4/10/2000, concerning the regulation of the Ministry of Interior and Municipalities. By virtue of this decree, the name of the Department of Palestinian Refugees' Affairs was changed into the 'Department of Political Affairs and Refugees' (DAPR). It should be noted that the new name does not refer to Palestinian refugees only, but to refugees in general.
- f. Decision no. (89/2005), issued by the Council of Ministers, and by virtue of which the Lebanese Palestinian Dialogue Committee (LPDC) was created under the Council of Ministers to improve the lives of Palestinian refugees and provide them with a decent living until they return to their country. This decree also provided for disarming Palestinians outside camps, and controlling and regulating the use of arms in camps.
- g. Memorandum no. (67/1), of 27/6/2005, issued by Lebanon's former Minister of Labor, Trad Hamadeh, and which enabled Palestinian refugees born in Lebanon and registered with the Department of Palestinian Refugees' Affairs to have manual and clerical jobs previously forbidden for them, on the condition of getting work permits because they are foreigners.
- h. The Council of Ministers' decision no. (2), of 27/11/2008, related to establishing diplomatic relations with the State of Palestine.
- i. Decision no. (10/1), of 3/2/2010, issued by former Minister of Labour Boutros Harb and enabling Palestinian refugees born in Lebanon to have manual and clerical jobs that are restricted to Lebanese citizens only, subject to the principle of preference of Lebanese workers, and provided that the Palestinian worker be officially registered in the records of the Ministry of Interior.

- j. Law no. (129), of 24/8/2010, amending article (59) of the Labour Law by exempting Palestinian refugees from reciprocity of treatment, and work permit fees. However, the application decree for the Labour Law as amended has not been issued yet.
- k. Law no. (128), of 24/8/2010, amending article (9) of the Social Security Law by exempting Palestinian refugees from reciprocity of treatment to benefit from the end of service compensation, but excluding them from the sickness, maternity and family fund allowances. However, this law required employers and their Palestinian employees to pay their share of participation (23%) to the National Social Security Fund in full although a Palestinian refugee worker only benefits from the end of service compensation, out of which he pays a contribution of 8%, and an additional 0.5% to the fund.
- l. Informative note no. (437), of 23/5/2011, issued by the Social Security Board of Directors to determine the conditions upon which Palestinian refugees benefit from the end of service compensation.
- m. The Council of Ministers' decision no. (21), issued during its session dated 1/8/2011, and related to the approval of measures aiming at putting the Council's decision no. (2) dated 27/11/2008 into effect.
- n. Circular no. (29/2011) issued by the Prime Minister on 25/11/2011, and addressed to all public administrations, public institutions, and municipalities regarding Palestinians' personal status documents.
- o. Decision no. (1/122) issued by the Minister of Labour in September 2011 and by virtue of which foreigners married or born to Lebanese mothers or fathers, or foreigners whose parents have received the Lebanese citizenship before they were 18 years old, were exempted from work permits fees and some documents and allowed to practice professions exclusively permitted for Lebanese only.

## **Second: The current situation**

### **1- Official practices**

#### **a. The right of residence, travel and movement**

Lebanon grants Palestinians refugees the right of permanent residence in Lebanon through an identification/resident blue card issued by the Department of Political Affairs and Refugees. This resident card is issued to Palestinian refugees of the first two categories previously mentioned.

Palestinian refugees of the first category are granted a travel document issued by the Directorate of General Security, and that is valid for five years, while refugees of the second category are granted travel documents valid for one year and renewable. The latter document does not permit the return of its bearer to Lebanon unless it is stamped with "Valid for return."

Refugees of the third category are granted by the Directorate of General Security special renewable identification cards valid for one year and renewable. These cards

prove their personal identity and facilitate some of their daily transactions as residents of Lebanon, de facto (in practice) not de jure (by law). Since they are illegally residing in the country, they are entirely deprived of traveling outside Lebanon. (This measure is no longer implemented and its reason must be addressed).

Lebanon imposes strict security measures on some Palestinian camps; thus hindering the free movement of refugees to and from the camps. In addition, refugees are exposed to arbitrary arrests by Lebanese authorities.

Lebanon relies on UNRWA's registration information to determine the categories of Palestinian refugees, knowing that UNRWA's definition of refugees is practical, specifically designed for the purposes of relief and does not match other definitions of refugees in many international treaties and conventions, particularly the 1951 Refugee Convention relating to the status of refugees. Between 1969 and 1982, the Lebanese State did not differentiate between the types of travel documents of refugees of the first two categories. Therefore, the right of Palestinian refugees to residence, freedom of movement and travel remains subject to random application. Accordingly, the rights of Palestinian refugees remain vulnerable to violation, depending on the changing circumstances and regional political conditions or Lebanese internal changes.

## **b. The right to work**

Palestinian and international non-governmental organizations (especially UNRWA) provide employment opportunities for Palestinian refugees in Lebanon through their relief and development programmes, including small loan businesses and income generating enterprises. Some Palestinians also manage small crafts enterprises far away from the control of the concerned authorities in the camps and their surroundings. Palestinian doctors, pharmacists and expert technicians run clinics, pharmacies and medical laboratories that are not licensed.

On the legal level, the Lebanese law has recently made a distinction between Palestinian refugees and other foreigners wishing to work in Lebanon. Such distinction was made by virtue of the amendments of 17/8/2010 which have exempted Palestinian refugees from work permit fees and the reciprocity of treatment to benefit from Social Security. Moreover, the Minister of Labour, Trad Hamade, allowed them, by virtue of a ministerial decree, to exercise some professions only permitted to the Lebanese.

Despite all the positive developments in the Lebanese legislation pertaining to the rights of Palestinian refugees residing in Lebanon, there are still some shortcomings. While recent amendments (Law no. (129)) exempted working Palestinian refugees from work permits fees; the law still requires that Palestinian refugees get a work permit as they are considered foreigners by the law. Furthermore, the Lebanese law is still not clear on how to get a working permit and what documents are required to

do so. This is why most Palestinian workers are subject to exploitation by employers. In addition, the abolition of the reciprocity of treatment in the Social Security Law is valid for the end of service compensation only and not to the sickness, maternity and family benefits.

Furthermore, these amendments did not address the issue of liberal professions which are not governed by the mentioned laws. Accordingly, Palestinian refugees are still deprived of practicing liberal professions in Lebanon. However, they practice such professions in camps without any control.

### **c- The right to own property**

Lebanese legislation has imposed certain restrictions on the freedom of foreigners, including Palestinians, to own properties in Lebanon. The acquisition by non-Lebanese of real estate rights in Lebanon is subject to Decree no. (11614) dated 14/1/1969 which grants foreigners the right to own property in Lebanon by virtue of a permit given by a decree issued by the Council of Ministers. However, article (3) of the same decree exempted Arab nationals, including Palestinians, from the permit. Thus, Arab nationals, including Palestinians, may own property in Lebanon without a prior permit as long as the property area is less than 5000 square meters in all Lebanese regions, and less than 3000 square meters in Beirut. Accordingly, Palestinians residing in Lebanon are granted the right to own property or a residential apartment within the specified permissible limits after paying the fees provided for in the Decree and payable by foreigners.

This was the case until a draft law was proposed by the government to amend some articles of Decree no. (11614) of 1969. The amendments meant to offer more incentives to foreign investors by removing the ownership and legal restrictions which would limit foreign investments. The Parliament approved the draft law and the amendment was introduced as follows: "The acquisition of properties of any kind by any person not holding an internationally recognized nationality or any other person is prohibited, if the permit contravenes the provisions of the Constitution in terms of settlement rejection". Accordingly, the new Foreign Acquisition of Property Law was issued under no. (296) on 3/4/2001 and deprived Palestinian refugees residing in Lebanon of the right to own property in Lebanon.

This law was criticized and challenged by virtue of a review submitted by ten MPs to the Constitutional Council. But the Council rejected it because for paragraph (2) of article (1) of the new Law no. (296) dated 3/4/2001 doesn't contravene the Constitution or any rule of constitutional force".

It should be noted, in this context, that the Lebanese authorities eased but did not lift restrictions imposed on the entry of building materials into some camps. It is also worth mentioning that the control of such entry is due to haphazard constructions and buildings that contravene construction laws. Every day, new buildings and



floors emerge beyond what is permitted by the laws in force. Consequently, relevant authorities find it difficult to put an end to these violations. In addition to the problem of Palestinian camps, there is the problem of residential communities that began to appear on the outskirts of the camps. These do not meet minimum construction, infrastructure and health safety standards. Furthermore, the problem of the displaced of the Nahr El Bared Camp after the events of 2007 still persists and has not been solved yet due to the delay in the completion of the camp's reconstruction.

- **The right to health**

Palestinian refugees benefit from the services of government hospitals and any other services provided by the Ministry of Health in the framework of the agreements between the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) and the Ministry of Health. Therefore, UNRWA, the Palestine Red Crescent Society and some non-governmental Palestinian organizations are the main bodies which provide health care services to Palestinians in Lebanon.

Since the beginning of 2010, UNRWA has adopted a new health care programme to improve health services provided to Palestinian refugees through the conclusion of contracts with several public and private hospitals in Lebanon.

In addition, UNRWA coordinated with the Ministry of Health to obtain preferential prices for hospitalization at government hospitals. An agreement was also signed between UNRWA and the Ministry of Health to provide medicine for Palestinian refugees suffering from cancer or other incurable diseases at discounted prices.

Furthermore, the Ministry of Health in Lebanon provides Palestinian dispensaries with vaccines as part of national campaigns for children's vaccination.

Despite the cooperation between the Ministry of Health and UNRWA in the field of health, UNRWA is still unable to offer Palestinian refugees all necessary health services because of its public services (including health services) budget deficit. Correspondingly, UNRWA's health contributions do not cover the full cost of some surgeries, such as open heart, dialysis, magnetic resonance imaging and other expensive procedures. Moreover, the Palestine Red Crescent Society and non-governmental organizations are not able to fill the gap resulting from UNRWA's lack of health services.

- **The right to education**

The Lebanese law does not prevent Palestinian refugees from enrolling at public schools, vocational institutes and the Lebanese University, even though UNRWA is responsible for their primary, middle and secondary education. Nevertheless, the Ministry of Education and Higher Education closely cooperates with UNRWA in this regard. Students who enroll in UNRWA schools benefit from a curriculum that is in line with Lebanese curriculums. This is actually a policy adopted by UNRWA in all host countries, and not a requirement imposed by the Lebanese government.

Palestinian refugees can enroll in Lebanese public and private elementary, middle or secondary schools, and they are treated like Lebanese students. They have to fulfill the same conditions, submit the same documents and pay the same tuition fees. They may be admitted in public schools as long as the latter can accommodate them, but knowing that preference is given to Lebanese first. If a Palestinian student (especially one who has lost his identification documents) failed to submit his identity card or his individual extract from civil status records, article (108) of the Code of Internal Regulations of public kindergartens and basic education schools no. (1130/M/2001) allows the acceptance of any other identification documents with the approval of the President of the educational district.

With regard to secondary education, Palestinian students enrolled at the Lebanese University are treated like Lebanese nationals. On 18/6/2009, the Council of Ministers issued Decision no. (90) to eliminate the university tuition fees to be paid by Palestinian students from Nahr El Bared Camp enrolled at the Lebanese University for the 2008-2009 academic year. The decision was applied to 68 students.

Decision no. 1 dated 1/5/2010, issued by the Ministry of Education and Higher Education, provided for the equivalence of some public high school degrees to Lebanese public high school degrees or Technical Baccalaureate.

Despite these positive measures, the admission of some Palestinian students to public schools or to the Lebanese University is discretionary, although they also benefit from the ten percent quota for foreigners at the Lebanese University.

- **The freedom of association**

Associations established by foreigners in Lebanon are governed by the reciprocity of treatment principle. The same goes for Palestinian refugees. There are three kinds of Palestinian associations in Lebanon.

1. Associations that are established with a notification issued by the Ministry of Interior.
2. Foreign associations that have branches in Lebanon by virtue of a permit from the Ministry of Interior.
3. Islamic waqf associations which do not require a permit from the Ministry of Interior but operate by virtue of what is called "a Shari'a cause" obtained from one the Shari'a courts directly affiliated to the Presidency of the Council of Ministers.

Palestinian refugees in Lebanon do not have the right to establish associations. This is why they establish Lebanese associations comprising Lebanese members in charge of the administration, and Palestinians as executive members, who are aware of the situation and problems of Palestinians.

Palestinian associations established in Lebanon are of ambiguous nature. They are legally Lebanese but Palestinian in reality. They offer their services to Palestinian refugees and Lebanese alike. But due to their ambiguous nature, they are held legally accountable.

### **Third: Executive measures**

#### **1-The Parliament**

- a. Grant Palestinian refugees the right to establish their own associations by virtue of a notification like other ordinary Lebanese associations, to enhance the civil status of camp residents. (MT)
- b. Remove obstacles that restrict the right of Palestinians residing and officially registered in Lebanon to establish and join syndicates and labour unions. (MT)

#### **2- The Council of Ministers and public administrations**

- a. Involve Palestinian refugees in the planning, execution and management of projects aiming at improving their conditions.<sup>38</sup> (ST)
- b. Support programmes that provide Palestinian refugees with job opportunities, small loan businesses and income generating enterprises that help build self-sufficiency.<sup>39</sup>
- c. Enhance the capacity of the Lebanese Palestinian Dialogue Committee to assist Palestinian refugees by reinforcing their fundamental rights and improving their living conditions. (ST)
- d. Issue application decrees for Law no. (129/2010) on the right to work. (ST)
- e. Find an acceptable solution for 'undocumented' Palestinian refugees in Lebanon estimated to a few thousand. (MT)
- f. Unify the validity period for all travel documents given to Palestinian refugees. (MT)
- g. Reduce restrictions imposed on the freedom of movement of Palestinian refugees and humanitarian activists to and from the camps. (MT)
- h. Suspend the permits required for Arabs, foreigners, journalists and non-governmental international organizations to enter camps, for relief, development and media purposes. (MT)
- i. Reduce restrictions imposed on the entry of building materials to camps in order to mitigate population congestion in and around the camps. (MT)
- j. Launch a comprehensive development plan about construction laws and norms to be observed in the camps with the participation and contribution of the United Nations Relief and Works Agency (UNRWA) and other international community organizations, and in coordination with the Palestine Liberation Organization. This plan should help refugees get decent housing and connect the infrastructure of the camps to ones of neighboring municipalities. Accelerate the reconstruction of

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38 Of the recommendations of the Second Workshop on Refugees and Local Community Development organized in 2004 by a conference entitled "Meeting the Humanitarian Needs of the Palestine Refugees in the Near East: Building Partnerships in Support of UNRWA".

39 Of the recommendations of the Third Workshop on Strengthening Refugees' Social and Economic Development organized in 2004 by a conference entitled "Meeting the Humanitarian Needs of the Palestine Refugees in the Near East: Building Partnerships in Support of UNRWA".

Nahr El Bared camp to enable the return of the displaced as soon as possible. The plan was launched in 2006 and entitled "Camps Improvement Initiative". (MT)

### **3- On the right to health:**

- a. Allow Palestinian refugees who are registered and residents in Lebanon to benefit directly from the health services of all public hospitals, not only public hospitals which have signed contracts with the United Nations Relief and Works Agency (UNRWA). (MT)
- b. Include all Palestinian camps and clusters in the Ministry of Health's programmes for preventive medicine, in the statistical health surveys, particularly regarding contagious, transmittable and chronic diseases, and in the rehabilitation and physiotherapy programmes for people with special needs, particularly children. (MT)
- c. Request the Ministry of Health to offer technical support to Palestinian health care institutions. Exempt the latter from taxes and customs duties, and facilitate their access to medical and pharmaceutical equipment being brought from abroad, as donations and contributions. (MT).

### **4- On the right to education:**

- a. Offer Palestinian refugee students more opportunities to enroll in public schools. Such a process should be regulated by clear ministerial decisions that give Palestinian refugees priority over other non-Lebanese in the field of education. (MT).
- b. Remove obstacles hindering the enrollment of Palestinian refugee students in vocational institutes and some faculties of the Lebanese University like the faculties of medicine and engineering, by issuing relevant decisions and decrees. Give Palestinian refugee students priority over other non-Lebanese students. (MT)
- c. Include Palestinian refugees in some government programmes, such as national surveys to know their number, and poverty prevention programmes to enable them to benefit from the services offered by such programmes. (MT).
- d. Invite the international community and donor countries to fund projects such as the initiative launched by the government in 2006 to improve the living conditions of Palestinians in camps, and other similar initiatives to guarantee the decent living of Palestinian refugees until they return to their homeland (\*). (MT)

### **5- Lebanese and international civil society organizations**

Encourage Palestinian and Lebanese civil society organizations to engage in common activities and initiatives to raise awareness on the economic, social and legal situation of Palestinian refugees in Lebanon, and inform Palestinians of their fundamental rights in light of the international standards. (ST)

### **6- International organizations**

Call on the international community to offer financial and moral support to the United Nations Relief and Works Agency (UNRWA), so that it can continue to provide relief

and social protection for Palestinian refugees. Strengthen the tripartite partnership between UNRWA, donors and host countries, and the Palestinian National Authority (PNA) to improve the responsiveness of donors until a permanent solution is found for the problems of Palestinian refugees. (ST).

## Annexes

### Annex 1

#### Experts assigned to prepare the sectorial studies

Marie Ghantous	The freedom of association
Paul Morcos	Freedom of expression, opinion and the media; the rights of persons with disabilities; death penalty
Fahima Charafeddine	Women's rights
Alice Keyrouz	Children's rights
Michel Georges Khadij	The right to work and social security
Nabil Al Khatib	The rights of migrant workers
Antoine Chamoun	The right to housing
Sleiman Takeddine	The independence of the judiciary
Walid Al Nakib	Torture and inhumane treatment ; The principles of investigation and detention
Majed Samih Fayad	The penal code
Khalil Abou Rjeily	The right to education
Ramzi Salameh	The right to education
Ziad Baroud	Enforced disappearance
Ismail Sukkariah	The right to health
Hosni Chbaro	The right to health
Harley Boustany	Juvenile justice
Carla Hanna	The right to a healthy environment
Alexandre Najjar	The right to culture
Jaber Sleiman	The social and economic rights of Palestinian refugees
Samira Trad	The social and economic rights of non-Palestinian refugees
Ghassan Moukhaiber	Prisons and detention facilities
Nidal Jurdi	Protection from interference with the right to privacy and prohibition of wiretapping

## Annex 2

### Status of ratifications and submission of reports on the human rights conventions and cooperation with UN human rights organizations – May 2011

Lebanon acceded to six of the nine UN Conventions on human rights. However, it failed to submit its periodical reports to committees concerned with the monitoring of the implementation of four out of the six Conventions on human rights it signed, in addition to one Optional Protocol.

Name of convention/ Status of ratification	Date of entry into force	Number of States Parties	Lebanon's ratification	Status of reports submission	Reservations and declarations	Optional Protocol (1)	Number of States Parties	Status of ratification	Optional Protocol (2)	Number of States Parties	Status of ratification	Status of reports submission
International Convention on the Elimination of all Forms of Racial Discrimination	4/1/1969	Signees: 85 States Parties: 173	12/11/1971	The 16 <sup>th</sup> periodical report was revised in March 2004	Article (22)							
International Covenant on Economic, Social and Cultural Rights	3/1/1976	Signees: 69 States Parties: 160	3/1/1972	The preliminary report was revised in May 1993	Periodical reports that are due on: 2 <sup>nd</sup> : 30/6/1995 3 <sup>rd</sup> : 30/6/2000 4 <sup>th</sup> : 30/5/2005	Not entered into force. Signed on 24/9/2009	Signees: 33 States Parties: 2	Not a State Party				
International Covenant on Civil and Political Rights	23/3/1976	Signees: 72 States Parties: 166	3/11/1972	The second periodical report was revised in April 1997	The third periodical report was due on 21/3/2001	23/3/2000 The Optional Protocol to the International Convention on Civil and Political Rights	Signees: 35 States Parties: 113	Not a State Party	11/7/1991 The Second Optional protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty	Signees: 35 States Parties: 72	Not a State Party	
Convention on the Elimination of all Forms of Discrimination against Women	3/9/1981	Signees: 98 States Parties: 186	16/4/1997	The third periodical report was revised in January 2008	The 4 <sup>th</sup> and 5 <sup>th</sup> reports are due on 16/5/2014	22/12/2000 The Optional Protocol to the Convention on the Elimination of all Forms of Discrimination against Women	Signees: 79 States Parties: 99	Not a State Party	Reservations about articles (9/2), (16/1) and (29/1)			
Convention against Torture and other Forms of Cruel, Inhuman or Degrading Treatment or Punishment	26/6/1987	Signees: 76 States Parties: 147	5/10/2000		The first preliminary periodical report was due on 5/10/2001 and the 2 <sup>nd</sup> on 5/10/2005	22/6/2006 The Optional Protocol to the Convention against Torture and other Forms of Cruel, Inhuman or Degrading Treatment or Punishment	Signees: 64 States Parties: 54	22/12/2008				
Convention on the Rights of the Child	2/9/1990	Signees: 140 States Parties: 193	14/5/1991	The third periodical report was revised in June 2006	The 4 <sup>th</sup> and 5 <sup>th</sup> reports were due on 12/12/2011	12/2/2002 The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict	Signees: 125 States Parties: 132	Signed on 11/2/2002 but not a State Party yet	18/1/2002 The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography	Signees: 117 States Parties: 139	8/1/2004	The first periodical report was due on 8/1/2006
Convention on the Rights of Persons with Disabilities	1/7/2003	Signees: 146 States Parties: 89	Signed on 14/6/2007 but not a State Party yet			3/5/2008 The Optional Protocol to the Convention on the Rights of Persons with Disabilities	Signees: 89 States Parties: 54	Signed on 14/6/2007 but not a State Party yet				
International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families	1/7/2003	Signees: 31 States Parties: 43	Not a State Party									
International Convention for the Protection of All Persons from Enforced Disappearance	Has not entered into force	Signees: 83 States Parties: 19	Signed on 6/2/2007 but not a State Party yet									

## **Annex 3**

### **Lebanon's reservations on some provisions of conventions**

Lebanon expressed reservations about some of the provisions of the conventions the country adhered to:

- Convention on the Elimination of All Forms of Racial Discrimination

#### **Reservations**

Article (22), concerning the ways of settling disputes with respect to the interpretation or application of the Convention, and considering that any dispute between two or more states parties shall require the consent of all states parties concerned to be referred to the International Court of Justice.

- Convention on the Elimination of All Forms of Discrimination against Women

#### **Reservations**

Article (9/2) granting women equal rights with men with respect to the nationality of their children. Article (16/1) requesting states parties to take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations, including choosing a family name. Lebanon expressed its reservation about the choice of the family name. Article (29/1) about the ways of settling disputes arising between states parties to the Convention with respect to the application or interpretation of the Convention.

- The Lebanese government does not consider itself bound by paragraph 1 of this article.

#### **Article 9**

- Paragraph 2: States parties shall grant women equal rights with men with respect to the nationality of their children.

#### **Article 16**

- States parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:
  - a. The same rights and responsibilities during marriage and at its dissolution;
  - b. The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases the interests of the children shall be paramount;
  - c. The same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children, or similar institutions where these concepts exist in national legislation, in all cases, the interests of the children shall be paramount;
  - d. The same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation.

#### **Article 29**

- Any dispute between two or more states parties concerning the interpretation or application of the present Convention which is not settled by negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration, the parties are unable to agree on the organization of the arbitration, any one of those parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.
- Each State Party may at the time of signature or ratification of the present Convention or accession thereto declare that it does not consider itself bound by paragraph 1 of this article. The other states parties shall not be bound by that paragraph with respect to any state party which has made such a reservation.



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This study has been achieved with the support of the Belgian Ministry of Development through the "Inclusive and Participative Political Institutions in Select Arab States" project.