

Open Letter to the Parliamentary Committee of Human Rights



Esteemed Chairman and members of the Human Rights Committee of the Lebanese Parliament,

9th February 2021

Subject:

Petition to address questions to the Minister of Defense, the Minister of Interior, and the Minister of Justice regarding the non-application of Article 47 of Law No.191/2020, the ongoing failure to allow lawyers to attend preliminary investigations, and the lack of enforcement of Law 65/2017 (criminalizing torture).

One of the fundamental guarantees of justice is providing detained persons with access to a lawyer at the first moment of their detention to help them understand their rights and monitor the initial investigations' progress, as this ensures the defendant's right to a fair trial. Furthermore, Law No. 191/2020 was passed in the legislative session held on 9/30/2020 to amend the Code of Criminal Procedure, especially Article 47 thereof, to expand defense guarantees. We considered this a victory for justice, an adequate guarantee of a fair trial, and a positive step towards the prevention of torture. This amendment helps align Lebanese law with the international conventions, especially the International Covenant on Civil and Political Rights, Article 14, Paragraph 3 (d) of which guarantees the right of the defendant "[t]o be tried in his presence, and to defend himself in person or through legal assistance of his choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it."

Although Law 203/2020 has been in effect since 10/22/2020, i.e., for four months, it has not been implemented until now in any region of Lebanon, as mentioned above. To date, multiple violations have appeared in police agencies due to **the absence of effective monitoring of the proper functioning of justice, both on the part of security agencies and judicial monitoring.**

Since its entry into force on 10/22/2020, the military agencies and the police have not implemented the text of Article 47 of the Code of Criminal Procedure. Some of them claim that the Public Prosecutor has not yet issued a circular. However, the law must be applied even in the

absence of a circular. Some agencies stated that their offices were excluded from this article's application and were forbidden to allow a lawyer to attend initial investigations. Others found loopholes by designating the defendants with other names, claiming that they were not compelled to apply Article 47 since the people summoned were simply there to clarify some discrepancies and were not yet considered defendants.

Finally, the city of Tripoli witnessed massive demonstrations between 1/25/2021 and 1/31/2021 as a result of economic hardship, rising inflation impacting the price of the dollar on the black market, and the government's imposition of a general lockdown without taking measures to provide for the basic needs of the people. The demonstrations included assaults on the security agencies, the Sharia Court, and the municipality of Tripoli.

During these demonstrations, dozens of individuals were arbitrarily detained, either from the protest locations or following the raiding of their homes and their summoning for investigation, despite the absence of judicial warrants or any proper introduction of the security agency carrying out the arrests. The military agencies and the police have prevented these detainees from contacting their families and seeking the assistance of a lawyer during the preliminary investigations; deprived detained children of their right to be accompanied by a juvenile delegate; subjected detainees to beatings and torture; and coerced them to sign statements they disagreed with, all in flagrant violation of the Code of Criminal Procedure as amended by Law 191/2020. This led the Tripoli Bar Association and human rights organizations to investigate and search for the detainees, but these security agencies, in many cases, denied their existence.

This prompted lawyers from the Tripoli Bar Association to submit a report to the Public Prosecution at the Court of Cassation in Lebanon on 4th February 2021, registered under No. 569/2021, noting the occurrence of crimes of enforced disappearance, the deprivation of liberty without any legal basis, and the refusal to apply Articles 47 and 32 of the Code of Criminal Procedure. Furthermore, there was evidence of torture against the demonstrators, based on a medical report of one of the detainees released, which proved that he had been subjected to the most heinous types of beatings and torture.

It is worth noting that Law No. 65/2017 (criminalizing torture), which was passed on 20/9/2017, is yet to be put into effect, as found in the reports of Lebanese and international human rights organizations, including Amnesty International. Despite its application in cases covered by the press, the response to the law has been timid and has not yielded significant results.

The Tripoli Bar Association issued a booklet documenting torture cases that took place from 2017 until now without any accountability. This phenomenon became evident to the public after the protest movement that erupted in October 2019, when torture crimes increased. The attacks,

beatings, and mistreatment of demonstrators were apparent in all Lebanese territories. Those crimes remain unaccounted for, to date, despite the filing of criminal complaints to the Public Prosecution at the Court of Cassation and the Government Commissioner to the Military Court.

Furthermore, despite the promises made by Lebanon during the Universal Periodic Review that took place last month in Geneva on 01/18/2021, especially concerning its commitment to the application of international conventions and the application of Law No. 191/2020 and Law No. 65/2017, there has been no application of these laws or any prosecution of the perpetrators.

Given that the role of the Human Rights Committee is to pass legislation, draft laws, and monitor the executive authority, and since Article 124 of the Parliament's internal regulation states that "one or more deputies have the right to direct questions, in verbal or written form, to the government as a whole or one of the ministers, and the government may answer the question immediately or request that the answer be postponed;"

Faced with this reality, and as part of our attempt to monitor the proper functioning of justice, protect residents from the violations they are exposed to, and ensure the administration of justice, we, the undersigned unions, organizations, associations, and institutions concerned with human rights have submitted this petition to the Human Rights Committee. We attach to this petition documents that establish the various violations (a booklet issued by the Tripoli Bar Association documenting cases of torture without accountability in 2020; a report to Public Prosecution on cases of enforced disappearance, deprivation of liberty, and violations of the application of Article 47 of the Code of Criminal Procedure relating to more than 28 disappeared persons; and two reports issued by a forensic doctor which document cases of torture by the military and the judicial police). We request that the following questions be directed to the Ministers of Defense, Interior, and Justice as per Article 124 of the Parliament's internal system, in their capacity as those responsible for the work of the security and judicial agencies:

1. What implementing measures have been adopted by the Ministries of Interior, Justice, and Defense to guarantee the implementation of Article 47 of the Code of Criminal Procedure, as amended by Law 191/2020; to address the ongoing denial of access to lawyers during preliminary investigations; to implement Law 65/2017 (criminalizing torture)?

2. What implementing measures have been taken by the Ministries of Interior and Defense when laws are violated by the military and the judicial police, including the following violations:

- Failure by the military and the judicial police to present a judicial decree during arrests;
- Failure to inform detainees of their charges;
- Not allowing detainees to contact their families;

- Not allowing detainees to see a lawyer before starting the preliminary hearing for the suspect or seeking a lawyer's assistance to attend the preliminary investigations, and if the suspect is unable to appoint a lawyer for financial reasons, failing to appoint a lawyer through the Beirut and Tripoli Bar Associations.
- Not allowing minors to be accompanied by a juvenile delegate
- Not allowing an independent forensic doctor specializing in physical or psychological health at the expense of the public treasury to inspect the defendants
- Exposing detainees to beatings and torture
- Exceeding the 48-hour time limit for pre-trial detention, which can be extended for the same duration.
- Not ensuring the audio and video recording of the interrogation procedures or the hearing of the statements of the suspects during the preliminary investigations that have been in progress since 12/22/2021
- Failing to appoint a sworn translator if the defendant does not speak the Arabic language, especially to implement the amendments approved by Law No. 191/2020 to the Code Criminal Procedure?

3. What are the organizational and implementing measures taken by the Ministry of Justice in light of:

- The absence of judicial oversight and lack of accountability for violating Article 47 of Law 191/2020 and Law 65/2017 (criminalizing torture);
- The absence of the role of the Public Prosecution in obliging the military agencies and the police to implement Article 47 of Law 191/2020;
- The lack of serious implementation of Law 65/2017, although three years have passed since its approval;
- The failure to initiate investigations into cases of torture when raised by the victim. Note that the concluding observations that Lebanon received from the United Nations Human Rights Council on 19th May 2017, confirmed that the burden of proof rests with the court if the victim raises it.

Finally, suppose there are no clear and convincing answers from the ministers as mentioned above. In that case, we ask you to call for their questioning before the General Assembly as per Article 139 of the Parliament's internal system, which allows the Parliament in its general assembly to decide to conduct a parliamentary investigation into a specific subject based on a proposal submitted for discussion or a question or interrogation put forward on a specific topic or project.

Sincerely,

The undersigned:

The Tripoli Bar Association.

Access Center for Human Rights - Lebanon.

Active Lebanon - Norway.

AlKarama for Human Rights - Switzerland.

Amnesty International - Lebanon.

Association for Victims of Torture in UAE - Switzerland.

Ceasefire Centre for Civilian Rights - England.

Cedar Centre for Legal Studies - Lebanon.

Centre of Judicial Aid and Legal Assistance - Tripoli Bar Association, Lebanon.

Centre d'accès pour les droits de l'homme - France.

Helping Hands Foundation - Lebanon.

Irshad and Islah Islamic Beneficent Association - Lebanon.

Khiam Rehabilitation Centre for Victims of Torture - Lebanon.

Najat Social Association - Lebanon.

Shams Beirut - Lebanon.

The Human Rights Institute - Tripoli Bar Association, Lebanon.

The Centre for Prisoners Rights - Tripoli Bar Association, Lebanon.

The Lebanese Centre for Human Rights - Lebanon.

The Lebanese Foundation for Permanent Civil Peace - Lebanon.

The Legal Agenda, Lebanon.

Union for Muslim Jurists - Lebanon.

Urnammu for Justice and Human Rights - Canada, UK.

VOICE, France.

An organization that prefers to remain anonymous.

The attached documents:

- A Handbook documenting cases of torture issued by the Tripoli Bar Association 2020.
- Reports of enforced disappearance, deprivation of liberty and violations of Article 47 of the Code of Criminal Procedure for more than 28 persons (picture attached), dated 4/2/2021.
- A medical report of a Lebanese citizen who was beaten and tortured by security agencies, dated 3/2/2021.
- A medical report of a Lebanese citizen who was beaten and tortured by security agencies, dated 6/2/2021.