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HUMAN RIGHTS VIOLATIONS: INSIGHTS INTO THE LEBANESE MILITARY COURT SYSTEM

CEDAR CENTRE FOR LEGAL STUDIES (CCLS)

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EXECUTIVE SUMMARY

In the ongoing debate among politicians and human rights activists regarding the reform of the military justice and its jurisdiction, the law continues to allow civilians to be tried before military courts. Such trials deprive civilians of essential judicial safeguards, as military judges often fail to provide explanations for their decisions, thereby shielding the judiciary from meaningful legal oversight. This debate is divided between two main positions. One advocates for abolishing military justice in civilian cases entirely, limiting its scope to disciplinary matters involving military personnel (Legal Agenda, 2024). The other argues for reconstituting military courts with justices of the peace, rather than military officers, to enhance fairness and transparency (Boutros, Saghiyeh, 2018).

This report discusses these paradoxes by contextualizing the debate within its historical and legal framework. It draws on desk reviews and interviews with lawyers and human rights defenders, alongside an analysis of four case studies highlighting violations and the lack of conformity within military courts. Based on these findings, the report proposes recommendations aimed at ensuring a minimum standard of fairness in military court proceedings. It is of note that civilians standing trial before military courts violate international standards. The Decaux Principles (Callejon, 2006; Weill, Sharon, Robinson, Mitch (2017) prohibit the trial of civilians by military courts and extend to specific offenses committed by members of the military and security forces, even when performed in the line of duty.

INTRODUCTION

Since 2011, with the outbreak of the Arab spring, wave of protests and uprisings across the Arab world, and the increasing use of military justice by governments to suppress dissents, human rights defenders in several Arab countries have rallied around a common slogan: "No to trying civilians before military courts" (Frangiyeh, 2025). In Lebanon, however, this call to action gained momentum only in 2015, coinciding with the "You Stink" movement, which emerged in response to the garbage crisis and saw protesters arbitrarily arrested and referred to military courts.

Efforts to challenge the authority of military courts in Lebanon have a longer history, stretching back decades. For example, during the August 2001 crackdown on political activists opposing what was euphemistically referred to as the "trusteeship era," a significant legal and political battle unfolded. This struggle featured a clash between the "state of law", represented by the Court of Cassation and its president, and the "state of military justice". The tension culminated in the resignation of the Court of Cassation's president after the military judiciary attempted to undermine his court's ruling that it lacked jurisdiction over civilians involved in those arrests (Umam, 2014).

The role and authority of military courts in Lebanon have long been a contentious issue among politicians, legal experts, and human rights activists. Current laws continue to allow civilians to be tried in military courts, which are widely criticized for lacking essential judicial safeguards and failing to provide transparent justifications for their rulings. This lack of accountability effectively shields the military judiciary from oversight and undermines public trust in the legal system.

This debate around military courts is polarized. One position advocates for abolishing military justice for civilians altogether, and limiting it strictly to disciplinary cases involving military personnel. The opposing view supports reforming military courts by replacing military officers with civilian judges, such as justices of the peace, to enhance fairness and impartiality (Legal Agenda, 2024; Farngiyeh, 2025). This report is framed within the context of this enduring and politically charged debate, which intensifies or subsides depending on Lebanon's shifting political landscape. It examines how military courts in Lebanon have positioned themselves against human rights defenders, rather than upholding the rule of law. Specifically, the report analyzes the legal, historical, and political dimensions of the military judiciary, explores proposals for abolishing or reforming the system, and provides four illustrative case studies.

The research for this report was conducted between April and June 2024 by Cedar Centre for Legal Studies. The study involved a desk review of secondary materials, both published and unpublished, and five interviews with legal experts, human rights activists, and lawyers. Additionally, it includes four in-depth case studies of proceedings handled by military courts, focusing on fair trial principles, the treatment of detainees, access to legal representation, and adherence to human rights standards.

The methodology is qualitatively, employing on content analysis of wide range of secondary data, published and unpublished materials and interviews. The interviews were conducted in Arabic.

PART I: THE LEGAL FRAMEWORK AND STRUCTURE OF THE LEBANESE JUDICIARY

The independence of the judiciary is a precondition for providing justice within society and protecting human rights. The lack of an independent judicial system jeopardizes the rights and freedoms of citizens and renders them vulnerable to violations committed by the executive or legislative authorities or others holding power. An independent judiciary, by contrast, curbs arbitrariness, ensures non-interference, and upholds the rights of individuals (Alef, 2008).

The judicial power is vested in the courts. There are three levels of courts: (1) the Trial Court (primary jurisdiction), (2) the Court of Appeal and (3) the Cassation Court (equivalent to the Supreme Court) (ibid.). The trial by jury does not exist in Lebanon.

1. The Trial courts are of two kinds: a) Single judge courts, having jurisdiction over all civil, real and personal actions, b) Trial courts, one in each of the five districts of Lebanon composed of a chief judge and two assistant judges called counselors, have general jurisdiction over all civil matters not specifically reserved to the single-judge courts.

2. Appealable cases are submitted to the Court of Appeal, which is composed of three judges. Each district has the Court of Appeal, with authority to pass on questions of fact and questions of law.

3. There is only one Court of Cassation, which is located in Beirut. It is composed of five chambers, each with one chief and two counselors. The Court of Cassation passes only on questions of law.

Attorneys in Lebanon have two bar associations, one in Beirut and the other in Tripoli, the second-largest city of Lebanon. The Beirut Bar Association includes registered attorneys having offices in all Lebanese districts with the exception of the district of Northern Lebanon. There are approximately 1,500 attorneys registered in Lebanon.

THE MILITARY COURT'S PLACE IN THE JUDICIARY

The exceptional courts in Lebanon include: The Juvenile Court, the Publications Court, the Judicial Council, and the Military Court. Unlike the civilian judicial courts, the military judiciary in Lebanon follows the exceptional courts, which are special courts that specialize in hearing specific cases defined exclusively by special legislation. In other words, they deal with a specific category of crimes according to special principles, so their jurisdiction is the exception to the jurisdiction of the ordinary judicial courts. The Code of Military Justice is the law no. 24/1968¹ that defines and organizes military courts, including the powers and procedures to be followed before them, and the law that defines military offenses and the appropriate penalties for them. Pursuant to Article 34, military courts are part of the Ministry of Defense and not the Ministry of Justice or Interior. The Minister of Defense, in consultation with the military and security services, appoints the military judges at the beginning of each year.

¹ Cedar Centre for Legal Studies, The Code of Military Justice no. 24/1968, https://ccls-lebanon.org/wp-content/uploads/2023/12/MilitaryCode1968_AR.pdf

Military court judges rely on: the Code of Criminal Procedure², the General Penal Code³, the Military Judiciary Law⁴, the Terrorism Law issued on November 11, 1958, the Narcotics Law, the Weapons and Ammunition Law.

There is a close relationship between the Code of Military Justice, on the one hand, and the Penal and Criminal Procedure Codes on the other. The Code of Military Justice is a specialized law that must be applied if its provisions are explicit. The Penal Code and the Code of Criminal Procedure are general laws that must be applied if the special law does not contain any provision applicable to the legal case before the judge. This is explicitly affirmed in Articles 33 and 99 of the Code of Military Justice.

The military judiciary deals with the following offenses:

- Terrorism offenses of all kinds.
- Military offenses specified in Book III of the Code of Military Justice.
- Offenses of treason, espionage, and dealing with the enemy.
- Offenses related to weapons and ammunition that are not related to other crimes.
- Offenses committed in barracks, camps and military institutions.
- Offenses committed by and/or against the person of a member of the military.
- Offenses committed by and/or against the person of a member of the Internal Security Forces, Public Security or State Security if they are related to the job.
- Offenses prejudicial to the interest of the army, internal security forces, public security or state security.
- Offenses against the person of a member of foreign armies present in Lebanon or prejudicial to their interests.

The structure of the military judiciary consists of three judicial bodies:

1) The prosecution judiciary, which is composed of judges representing the military prosecution, namely: The Government Commissioner to the Military Court and the assistants, who perform all the duties of the ordinary appellate prosecution in all matters pertaining to its jurisdiction (Article 34). The prosecution judiciary also includes the Government Commissioner to the Military Court of Cassation, who performs the duties of the prosecutor at the Court of Cassation in relation to its jurisdiction.

2) The investigative judiciary consists of military magistrates, namely the first military magistrate, and other military investigative magistrates who exercise the same functions as those specified in the ordinary judiciary for judicial investigative magistrates, in all matters related to their jurisdiction (Al Khoury, 2017).

3) The judiciary which consists of three levels of courts:

a) Single military judges: these are the sole military judges who constitute the courts of first instance in the military judiciary and are distributed among the five military regions. Their jurisdiction includes misdemeanors and infractions within the governorate for which the maximum penalties do not exceed a fine, one year in prison, or both.

b) Permanent Military Court: the Permanent Military Court is based in Beirut, it has jurisdiction over referred offenses with maximum penalties of more than one year in prison and is the appellate reference for judgments issued by the individual military judges (second instance court). It consists

² <https://ccls-lebanon.org/wp-content/uploads/2023/11/Penal-Code-EN.pdf>.

³ https://sherloc.unodc.org/cld/uploads/res/document/lebanon-penal-code_html/Lebanon_Penal_Code_1943.pdf.

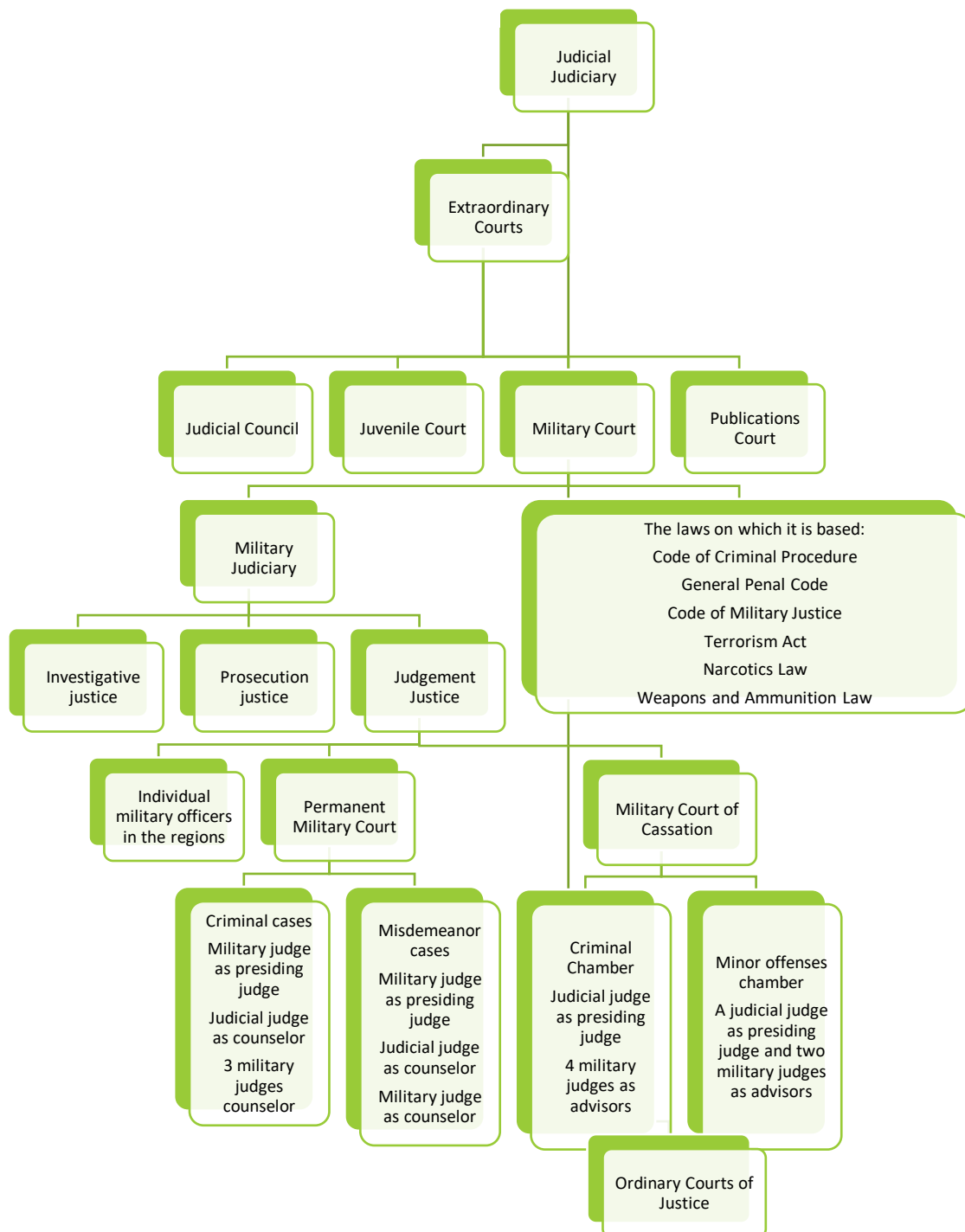
⁴ <https://www.icj.org/wp-content/uploads/2018/05/Lebanon-Memo-re-army-courts-Advocacy-Analysis-Brief-2018-ENG.pdf>.

of two chambers, a criminal chamber consisting of a presiding military judge, a judge from the staff of the ordinary judiciary as an advisor and three advisory military judges, and a misdemeanor chamber consisting of a presiding military judge, a judge from the staff of the judicial judiciary as an advisor and a military judge as an advisor.

c) Military Court of Cassation: the Military Court of Appeal is the Military Court of Cassation, based in Beirut. This court is specialized in hearing appeals against: 1- verdicts issued by the Permanent Military Court, 2- release or dismissal decisions issued by military investigative judges or the Permanent Military Court, 3- validation of judgments issued by military courts. In addition, it is an appellate reference for decisions issued by the Disciplinary Council. It consists of two chambers, which are not necessarily separate, a criminal chamber headed by a judge from the

judicial system and five advisory military judges, and a misdemeanor chamber headed by the same or another judge from the judicial system and two advisory military judges.

Figure 1. Lebanese Judicial Judiciary



HISTORICAL OVERVIEW OF THE MILITARY JUDICIARY

There have been numerous studies over the course of years (Wickersham, Nsouli, 1971) published on the judicial system in Lebanon, dealing with the independence and impartiality of the judiciary, while there are a few studies on the military justice. Abou Chakra (2020), an investigative judge in the military court, wrote a paper, expounding in the first section upon the decisions that can be issued by the military investigative judge, and in the second, dealing with the means of appeal and the court or courts competent to hear them.

Mansour and Daoud (2010) illustrate in their report the practical consequences that a lack of independence can have on the rights of citizens. The paper includes a series of detailed recommendations concerning the constitutional, legal and administrative changes that are required in order to achieve a level of judicial independence in accordance with international standards.

In the same year, Vashakmadze published for the Geneva Centre for the Democratic Control of Armed Forces (DCAF) a *Guidebook: Understanding Military Justice*, (Vashakmadze, Mindia, 2010) encompassing case studies from Australia, Canada, the United States of America, Slovenia, Honduras, Morocco. Even if this guide does not include the Lebanese case study, it helps to situate the Lebanese military justice compared to other systems by understanding the functioning and the main principles of military justice in a democratic society. It also focuses on policies and on the role of different stakeholders in shaping the legal and institutional framework for an effective and transparent system of military justice. It provides an overview of different military justice systems and outlines the challenges they are facing (Mansour and Daoud, 2010).

Military justice has existed since the 1940s. At the time, the aim was to create a court to rule on all matters related to the army. After independence, the law issued on October 12, 1945, established a military court and stipulated in its Article 4 that the military court has jurisdiction over crimes stipulated in the Ottoman Military Penal Code (which was in force at the time) or that fall within the court's jurisdiction by a special provision (Al-Haj, 2017).

Two criteria were adopted for jurisdiction, one based on the type of offense, including those affecting the interests of the army, and the other based on the status of the victim or defendant, i.e. if the offense was committed by or against a soldier. Both criteria open the door to prosecuting a civilian before a military court (Al-Haj, 2017). However, the law gives the Minister of National Defense the authority to refer the case to the ordinary courts if the defendant is a civilian, in a clear indication of an attempt to reconcile as much as possible the Court's jurisdiction with the principle of the civilian judge and to reduce the number of cases in which a civilian is tried before a military court. Members of the gendarmerie and public security are excluded from the Court's jurisdiction. Article 21 of the law also gives the court jurisdiction over offenses involving members of allied armies unless there is a special agreement.

The Lebanese Military Penal Code was issued on January 12, 1946, and Article 26 states that "the decisions of the military investigator shall not be subject to any form of review".

On January 23, 1946, the Ottoman Military Penal Code and the Law of October 12, 1945, were repealed, and the Military Penal Code was ratified. While the 1946 law categorized the jurisdiction

of the military court between what it termed “absolute” and personal jurisdiction, it also sought to narrow its jurisdiction and limit the prosecution of civilians before it to military offenses (Al-Haj, 2017). Article 50 of the Court enumerates the crimes that fall within its jurisdiction, namely military offenses, both misdemeanors and felonies, as stipulated by the same Law. Article 51 confirmed that the court’s personal jurisdiction is limited to military personnel and military equals who are civilian employees of the army, “as long as they are in the service of the army”.

On February 28, 1956, the Law on the Establishment of a Military Court of Cassation and the amendment of some articles of the Military Penal Code, re-extended the powers of the Military Court to offenses against members of the military and its personnel. In doing so, the 1956 law re-established the Court’s authority to consider the victim’s military status (as in the 1945 law) and not only that of the perpetrator, unlike the 1946 law. The Court’s jurisdiction was also expanded by removing the requirement that the prejudice to the interests of the military be “direct” as was the case in the 1946 law, making the rule of jurisdiction here too very broad. Finally, the 1956 law replaced the term “every soldier” in Articles 109 and 140 of the Military Penal Code with “every person”, thus extending the Court’s jurisdiction to prosecute civilians for the offenses covered by these articles.

After the incidents in 1958, between the leftist, the opposition of the government, and those of the Lebanese government under President Camille Chamoun, Parliament passed the Anti-Terrorism Law. The aim was to find a legal framework for espionage, terrorism and all matters relating to the Lebanese army. Law of January 11, 1958, was passed to temporarily and exceptionally suspend some articles of the Penal Code and increase the penalties for the crimes stipulated therein, bringing them under the jurisdiction of the military court. For example, the offense of “manufacturing, acquiring or possessing explosive or inflammable substances, toxic or incendiary products or parts used in their composition or manufacture” (312 penalties - equivalent to Article 5 of the 1958 law) and the offense of terrorism, which is punishable by death “if it (the terrorist act) results in the death of a human being or the destruction of part or all of a building in which a human being is present, or if it results in the partial destruction of a public building, an industrial establishment, a ship or other facilities, or the disruption of intelligence, communication and transport”⁵.

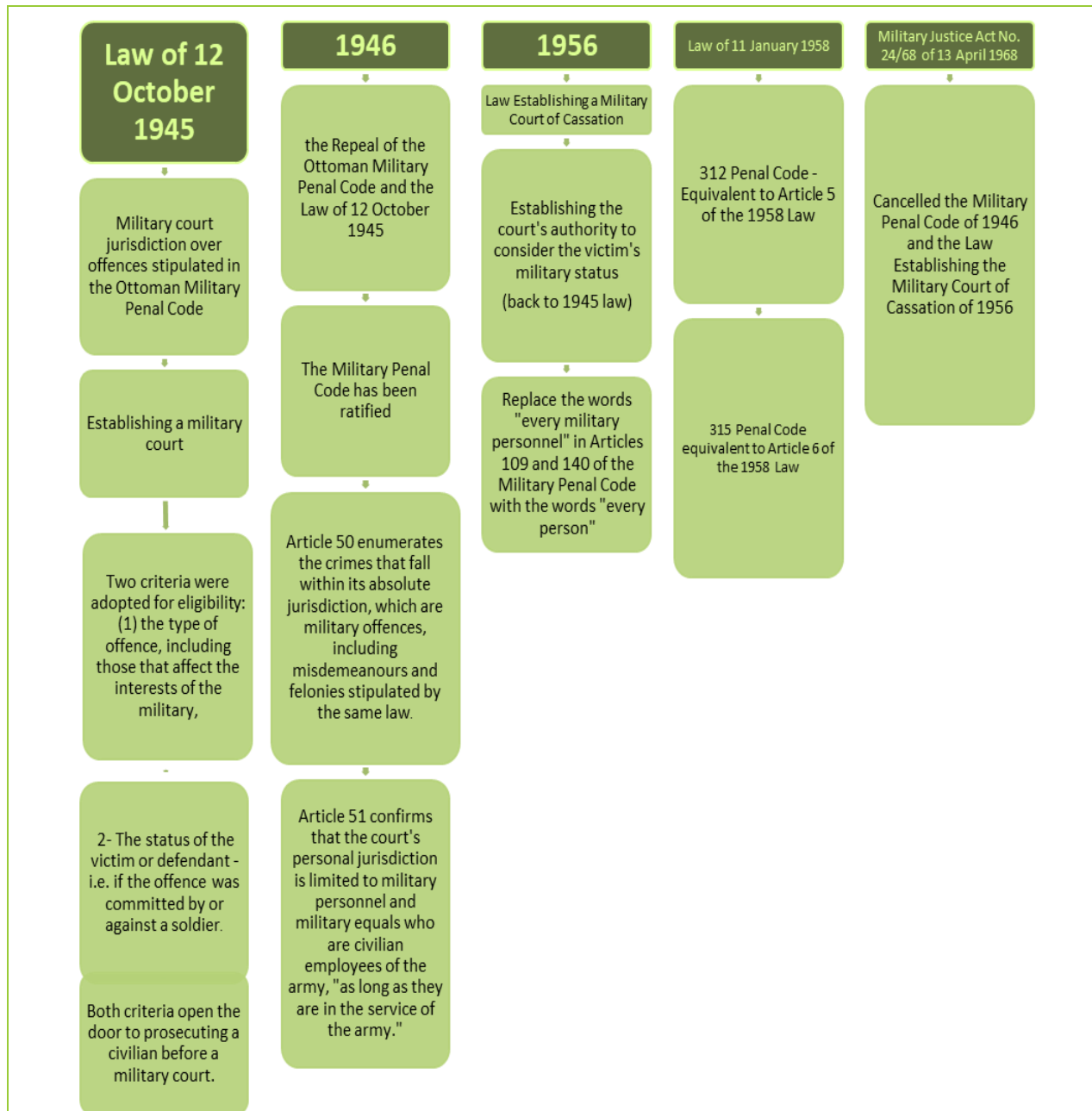
On April 13, 1968, the Law No. 24/68 on Military Justice was issued. It repeals the Military Penal Code of 1946 and the Law on the Establishment of the Military Court of Cassation of 1956. It is still in force today. It again expanded the powers of the military court, adding to its specific jurisdiction the power to prosecute “crimes against the person of a member of the Internal Security Forces and Public Security” and “against civilian employees of the Ministry of National Defense, military courts, or the army, Internal Security Forces (ISF), and Public Security Forces (PSF) if these crimes are related to the job” (AL-Haj, 2017). This entails an expansion of the concept of “privacy” that justified the establishment of the military court, which used to be exclusively related to the military, to include all security and military institutions and their personnel. At the same time, the personal jurisdiction was expanded to include, in addition to military personnel and those who are considered military personnel, members of the Internal Security Forces and General Security, regardless of the type of crime they are charged with.

On the other hand, the power to prosecute civilian employees of the Ministry of National Defense, the army, military courts, the ISF or the PSF is limited to cases in which the crime arises from the

⁵315 Penal Code - equivalent to Article 6 of the 1958 Law.

employment. Legislative Decree No. 110/77, issued on June 30, 1977, retained the jurisdiction of military courts to prosecute crimes committed by or against members of the Internal Security Forces, Public Security Forces, employees of either institution, or State Security, but limited it to those committed during or in the course of their employment (Mhanna, 2015).

Figure 2: Timeline of the Military justice



MILITARY JUDICIARY CHALLENGES

Military justice in Lebanon is facing significant structural, procedural, and ethical challenges. These issues affect trial fairness, the protection of civil liberties, and the accountability of key actors within the military judiciary.

1. Trial Procedures

While the Criminal Procedure Law provides for the right to a fair and public trial, and this right is generally respected, several systemic shortcomings remain:

- Trials are *generally public*, but judges may order closed sessions at their discretion.
- Defendants are entitled to interpretation services, yet in practice, interpreters are rarely available, which hampers non-native speakers' access to a fair trial.

2. Lack of Respect for Physical and Legal Integrity

There are persistent reports of violations during pretrial detention:

- Authorities acknowledge that violent abuse occurs, particularly in police stations and military installations, where detainees are often interrogated without legal representation (U.S. Department of State, 2023).
- These conditions violate international standards of due process and the prohibition of torture and inhumane treatment.

3. Arbitrary Arrests and Political Detentions

The Military Code of Justice grants military intelligence broad powers to arrest without warrants in cases involving:

- Military personnel
- Civilians suspected of espionage, treason, terrorism, or illegal possession of weapons

This legal provision opens the door to politically motivated detentions, and undermines safeguards against arbitrary deprivation of liberty and life.

4. Civil Liberties and Freedom of Expression

The Military Code prohibits **insulting the security forces**. According to **Freedom House**, individuals critical of the military, government, or foreign leaders face:

- Police questioning
- Short-term detention
- Fines or other forms of intimidation

These restrictions have a chilling effect on free expression, especially for journalists and civil society actors (Human Rights Watch, 2017).

5. Abuses Attributed to the Government Commissioner to the Military Court (GC)

Attorney Mohamad Sablough has publicly denounced systemic abuses within the military justice system. He attributes many of these not only to institutional flaws but to the conduct of the Government Commissioner to the Military Court (GC). According to Sablough⁶:

- The GC holds extensive discretionary power. When a security agency arrests someone, it notifies the GC, who can decide whether the investigation proceeds or not.
- The GC oversees preliminary investigations, publishes final reviews, and holds the right to appeal any decision, including the final verdict.
- Sablough alleges that preliminary investigations are marred by abuse, as the GC does not ensure the application of safeguards such as Article 47 (which protects detainees from torture and guarantees legal representation).
- Arrests in sensitive cases are often random and unsupported by proper investigation. Files are frequently forwarded without scrutiny to investigative judges who, in turn, approve whatever the security services submit.

6. Disregard for Complaints and Procedural Integrity

Sablough⁷ argues that military justice lacks transparency and oversight:

- As a complainant, he is **not granted legal standing** in most military court cases. For instance, in the **Bashar Abdul Saud case**, he was denied access to case developments and only permitted to file a civil claim after a judgment.
- In retaliation, detainees are reportedly **pressured to discredit their lawyers**, with promises of release if they accuse them of falsehood—a **tactic he says GC uses frequently**.

7. Procedural Obstruction and Disappearance of Files

Sablough⁸ describes repeated instances of obstruction:

- In the Rabih Zakaria case, he requested a forensic doctor and filed a torture complaint, only to be told that no action had been taken. He has 30 such complaints, many of which are mysteriously misfiled or dismissed.
- In the case of Rabih al-Duhaybi, he was informed that no records existed, despite having valid prosecution numbers.

⁶ Interview with attorney Mohamad Sablough, 21 May 2024.

⁷ Ibid.

⁸ Ibid.

- He recounts that in a 2021 case involving the death of a soldier in Al-Qobeh (Tripoli), he obtained video evidence proving self-defense. The GC reportedly kept the file at his home for five months, only reacting when media pressure was applied.

8. Systemic Culture of Violence and Impunity

Sablouh believes the judiciary's **failure to address torture cases** has institutionalized a “**culture of violence**”:

- No torture cases have been concluded or properly prosecuted.
- The **Hassan al-Dika** case was ultimately shelved, and in **Bashar Abdul Saud’s** case, pressure was applied to drop the complaint.
- Military judiciary tends to **classify or dismiss torture cases** rather than pursue accountability.

The military justice system in Lebanon suffers from deep-rooted issues related to lack of transparency, abuse of power, arbitrary detention, and failure to investigate or prosecute torture. The **centralization of authority** in the office of the Government Commissioner—combined with a lack of independent oversight—creates an environment ripe for abuse and impunity. Legal professionals like **Mohamad Sablouh** are sounding the alarm about these systemic failures, and reforms are urgently needed to align military justice with international human rights and rule-of-law standards.

THE CODE OF MILITARY JUSTICE AND OTHER CRIMINAL LAWS

Final decisions on formal defenses issued by the military investigative judge are not subject to appeal by any means if they relate to competence, and the final decision issued by the military investigative judge can only be appealed by the reviewing prosecution for its opinion or review, or by the defendant if the decision was determined to be competent, or by the military general if it is contrary to the law.

The Code of Military Justice differs from other criminal laws⁹ in several ways, the most important of which are:

1. There is no indictment body, as the Military Court of Cassation, with its misdemeanor body, performs the functions of the indictment body in the event of an appeal against the release decisions issued by the military investigating judges.
2. The jurisdiction of military courts at any level is limited to the prosecution of public rights but not personal rights, so the complainant may only be heard as a matter of information, as he is considered a representative of the military prosecution.

⁹ For more details on the Criminal Code see: Al-Qahwaji, Abdul Qadir Ali (2009) *Commentary on the Code of Criminal Procedure (A Comparative Study)*, Book I, Public Right Litigation - Civil Litigation, Halabi Al-Huqawiyya Edition, Beirut, Lebanon.

3. The Military Public Prosecutor's Office is the only one to receive all complaints and information, while the investigating judge or the single criminal judge in the civilian judiciary can accept the complaint.
4. The power of attorney does not necessarily need to be in writing, but it is sufficient to authorize the president of the court during the course of the case if there is no attorney to defend the defendant, and the power of attorney is considered legal.
5. Contrary to the normal criminal procedure, which does not allow for an objection to an in-absentia judgment, Article 62 GC grants a defendant sentenced in absentia the right to object if he proves the existence of a force majeure that prevented him from attending.
6. All judges of the Military Public Prosecution and Military Investigation judges are judges of law as counsel in the military court for both criminal and misdemeanors, as well as in the Military Court of Cassation, which is presided over by a judge of law seconded from the Court of Cassation.

MILITARY COURT AND HUMAN RIGHTS

Military trials of civilians raise serious concerns regarding the principles of fair, impartial, and independent justice, as enshrined in international human rights law. These tribunals are often established to apply exceptional procedures that deviate from ordinary judicial standards and, in many cases, fall short of internationally recognized fair trial guarantees.

International Legal Standards

Although international instruments such as the UN Charter and human rights treaties do not explicitly prohibit military tribunals, they impose strict conditions to ensure the protection of fundamental rights. Trials of civilians before military courts must therefore adhere to conditions that provide **full guarantees of a fair trial**, in accordance with **international human rights standards**.

The **Human Rights Committee (HRC)**, the treaty body responsible for overseeing the implementation of the **International Covenant on Civil and Political Rights (ICCPR)**, has repeatedly emphasized that the use of military courts to try civilians should be strictly limited. In its **General Comment No. 32 (2007)**, the Committee stated:

“The trial of civilians in military or special courts may raise serious problems as far as the equitable, impartial and independent administration of justice is concerned. Therefore, it is important to take all necessary measures to ensure that such trials comply with the requirements of article 14 and that their use is exceptional and justified by objective and serious reasons” (U.N. Doc. CCPR/C/GC/32, 2007).

Concerns About Lebanon’s Military Courts

In its **Concluding Observations on Lebanon’s third periodic report (2018)** (U.N. Treaty Bodies Database, Concluding observations , 2018), the Human Rights Committee expressed deep concern about the jurisdiction of military courts over civilians, including minors. It noted that:

- Military courts in Lebanon enjoy broad jurisdiction over civilians.
- Judges in these courts are often military officers without formal legal training.
- Proceedings lack essential safeguards, including legal counsel, impartial adjudication, and adequate appellate review.

The Committee recommended that **Lebanon restrict the jurisdiction of military courts to military personnel and ensure that all civilians are tried before ordinary courts** with full guarantees of due process.

Lebanon’s International Obligations

Lebanon is a party to the **International Covenant on Civil and Political Rights**, having acceded on **3 November 1972** (entered into force **23 March 1976**). Article 14 of the ICCPR provides:

“All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law.”¹⁰

Moreover, Lebanon’s **Constitutional Preamble** affirms its adherence to the **Universal Declaration of Human Rights (UDHR)** and the UN Charter, thus giving these instruments significant domestic legal weight. Article 10 of the UDHR similarly states:

“Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal.”¹¹

Relevant Treaties Ratified by Lebanon

Lebanon has ratified a range of core human rights instruments, reinforcing its obligation to uphold judicial guarantees, including:

- International Covenant on Civil and Political Rights (ICCPR) – Acceded: 03/11/1972.
- International Covenant on Economic, Social and Cultural Rights – Acceded: 03/11/1972.
- International Convention on the Elimination of All Forms of Racial Discrimination – Acceded: 12/11/1971 (*with reservation on Article 22*).

¹⁰ Adopted and opened for signature, ratification and accession by the General Assembly in its resolution 2200 A (XXI) of 16.12.1966 and entered into force on 23.03.1976; Available at: <http://www2.ohchr.org/english/law/ccpr.htm>

¹¹ Adopted and proclaimed by the UN General Assembly Resolution 217 A (III) of 10.12.1948. Available at: <http://www.ohchr.org/EN/UDHR/Pages/Language.aspx?LangID=en>.

- Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) – Acceded: 21/04/1997 (*with reservations on Articles 9(2), 16(1)(c-g), and 29(1)*).
- Convention against Torture (CAT) – Acceded: 05/10/2000.
- Optional Protocol to CAT – Ratified: 26/08/2008.
- Convention on the Rights of the Child (CRC) – Ratified: 14/05/1991.
- Optional Protocol to the CRC on the Involvement of Children in Armed Conflict – Signed: 11/02/2002.
- Optional Protocol to the CRC on the Sale of Children, Child Prostitution, and Child Pornography – Ratified: 08/11/2004.

PROPOSALS TO ABOLISH THE MILITARY COURT

Despite formal commitments to judicial independence, political interference in Lebanon’s judiciary particularly within the military court system remains a serious concern. This interference is evident in the absence of an independent judiciary law, leaving military judges vulnerable to executive influence, and in flawed preliminary investigations in civilian courts, as well as direct ministerial intervention in judicial appointments. In 2020, a notable case of ministerial overreach occurred, and in 2024, the military court was suspended due to political disagreements over judicial appointments only to be resolved through high-level intervention. This persistent lack of judicial independence undermines Lebanon’s constitutional, judicial, and military institutions (Karam, 2024).

In its 1997 concluding observations, the United Nations Human Rights Committee expressed concern regarding the wide powers vested in Lebanon’s military courts, which extend beyond purely disciplinary matters. The Committee also noted procedural deficiencies and lack of oversight in these courts, recommending that Lebanon reconsider the powers of military courts and transfer jurisdiction over offenses by military personnel to civilian courts. These concerns have been echoed in subsequent Committee reports¹².

Lebanon’s military judiciary has faced longstanding criticism for systemic abuses and violations, particularly regarding jurisdiction and accountability for serious human rights abuses committed by military personnel. As noted by human rights lawyer Ghida Frangieh and others, military judges often defer unquestioningly to security reports, impeding thorough investigations. According to Sablough¹³, for instance, Judge Najat Abou Chakra has been criticized for never referring cases involving torture to proper investigation. Security reports are treated with undue authority, and investigative judges rarely pursue independent inquiries even in cases of death or serious abuse.

Military judges, though technically civilians, often act as security agents, and the system lacks true investigative mechanisms. Even the head of the military court, Brigadier General Khalil Jaber, has

¹² Report available at: <https://www.refworld.org/policy/polrec/hrc/1997/en/29968>.

¹³ Interview with attorney Mohamad Sablough, 21 May 2024.

lamented the dysfunctionality of the process, suggesting that files are simply transferred without scrutiny, resulting in unjustified detentions and acquittals after prolonged procedures.

This dysfunction extends to the implementation of anti-torture legislation. “Law No. 65, which mandates investigation upon claims of torture, has been largely ignored. In one case, a lawyer cited the Convention against Torture during a trial, only to be asked by the presiding judge where the document came from demonstrating a lack of awareness and training”¹⁴.

The majority of military judges lack formal legal qualifications, in direct violation of Article 10 of the *Universal Declaration of Human Rights*, which guarantees the right to a hearing by an independent and impartial tribunal. Military courts also fail to provide the procedural safeguards available in civilian courts (Abd Al Samad, 2021).

Civil society organizations and some political parties have called for the complete abolition of the military judiciary, citing violations of equality before the law guaranteed in the Lebanese Constitution. Military court rulings often lack reasoning, making them exceptional and discretionary - contrary to international fair trial standards under the *International Covenant on Civil and Political Rights*, the *Universal Declaration of Human Rights*, various UN General Assembly resolutions, and Human Rights Committee recommendations.

Chakib Kortbawi, Lebanon’s Minister of Justice (2011–2013), attempted to limit the jurisdiction of military courts to purely military matters. However, he faced substantial resistance, including opposition to even minor amendments, effectively stalling reform (Cochrane, 2015).

A notable initiative was introduced by MP Elie Kayrouz on April 22, 2013. His proposal aimed to significantly curtail the military judiciary over civilians. Key provisions of the proposal include Article 1: limits the jurisdiction of military court to “military offenses (...) in relation to military personnel referred before it”. The rationale is that trying a soldier involved in a dispute with a civilian before a military court composed predominantly of military judges creates unjustified immunity for the soldier. This arrangement contravenes general penal principles and undermines the constitutional principle of equality before the law.

Article 5 Assigns jurisdiction to ordinary courts for prosecuting civilians, whether they are the original perpetrator, accomplice, instigator, or concealer of a crime, even in cases where military personnel are also implicated and referred to the military judiciary. The provision explicitly excludes the referral of civilians to the military judiciary under any circumstances, citing the lack of fair trial guarantees and insufficient conditions to exercise the right of defense before military courts. Article 3 stipulates that all cases pending before the military court, where no final judgment has been issued, must be to the ordinary judiciary for adjudication.

In 2016, former Minister Ashraf Rifi proposed a draft law to shift terrorism-related cases from the military court to specialized civilian terrorism courts (Legal Agenda, 2016).

The Lebanese Forces party has spearheaded reform advocacy. During their conference “*Military Justice: What Rights?*”, MP Robert Ghanem recommended:

- Restricting military jurisdiction to military personnel;

¹⁴ Ibid.

- Abolishing the Judicial Council;
- Assigning terrorism and national security-related crimes to specialized chambers in criminal appeals courts, subject to cassation (Barjes, 2016).

Political divisions persist. The Administration and Justice Committee’s deliberations unfolded during the Gaza and South Lebanon conflicts, influencing objections from blocs such as the *Loyalty to the Resistance* and *Liberation and Development* (Lapoleb, 2024a).

The Strong Republic Bloc proposed (Legal Agenda, 2024) also introduced a legislative proposal, prepared by a subcommittee chaired by MP George Akis, aimed at:

1. Prohibiting military trials for civilians;
2. Restricting jurisdiction to military offenses;
3. Increasing civilian judge representation in military courts.

Human rights lawyer Nizar Saghiyeh¹⁵ called the proposal a “non-harmful” step forward but criticized key omissions:

- It fails to address torture and enforced disappearance cases;
- It maintains military jurisdiction over collaboration and terrorism cases, even during wartime, despite fair trial concerns;
- It reflects inconsistency in Western promotion of judicial standards, especially in contrast to responses to conflicts like Gaza.

According to Saghih, while removing military jurisdiction over civilians is a notable advancement, the proposal still allows military courts to try human rights violations involving civilians (e.g., torture and murder by soldiers), which should fall under civilian jurisdiction.

Further, while the proposal expands appeals and cassation mechanisms abolishing the current Military Court of Cassation and integrating its powers into a new chamber within the ordinary Court of Cassation it also creates internal appellate structures in military courts, which contradict international best practices.

Critically, the proposal fails to ensure judicial independence, as highlighted by Mr. Saghih¹⁶. It retains executive influence over appointments, allows officers without law degrees to serve as judges, and maintains the dominance of military personnel in judicial panels, except at the cassation level.

On March 28, 2024, Justice Minister Henry Khoury announced a boycott of parliamentary committee sessions by the Ministry of Justice and the Supreme Judicial Council. The boycott followed MP Firas Hamdan’s criticisms of military court prosecutors, which he viewed as legitimate oversight. Reform workshops remain paralyzed, with the Minister and committee

¹⁵ Interview with Nizar Saghiyeh, 13 May 2024.

¹⁶ Ibid.

leadership failing to resolve the crisis despite their constitutional obligations to legislative cooperation (Preamble to the Constitution, paragraph (e)) (Lapoleb, 2024b).

The Legal Agenda's feedback on the draft reforms was ignored by the Lebanese Forces, and it is still waiting for official positions from other political blocs. In 2017, similar efforts to transfer torture cases to civilian courts failed due to bloc opposition each insisting on keeping jurisdiction over such cases within its local courts.

While the proposed reforms represent an important step, deep political resistance, institutional inertia, and the absence of safeguards for judicial independence continue to obstruct genuine reform. More comprehensive measures are needed to align Lebanon's military justice system with international human rights standards.

THE MILITARY COURT PARADOXES AND EXPERIENCES

Historically, Lebanon's military court has operated with significant legal ambiguities and jurisdictional overreach, often functioning beyond its legally defined mandate. Despite clear limitations in law concerning its scope, press archives from the post-Taif period reveal that the military judiciary has frequently been used as a tool for suppressing political dissent and civil activism.

Notably, the military court prosecuted supporters of the Free Patriotic Movement and the Lebanese Forces in the years leading up to 2005. More recently, it targeted civil society activists involved in the 2015 protest movement, known as the "You Stink" campaign, which emerged in response to the garbage crisis and broader political dysfunction. These prosecutions shared several troubling characteristics:

1. **Weak evidentiary basis** – Accusations were often based on insufficient or inconclusive evidence.
2. **Overbroad legal interpretation** – Military judges routinely applied vague or overly broad penal provisions, rendering legal protections meaningless and enabling arbitrary prosecutions.
3. **Jurisdictional overreach** – The military court initiated and maintained control over prosecutions despite lacking the jurisdiction to do so under Lebanese law, particularly in cases involving civilians.
4. **Post-facto invalidation** – Many of these prosecutions were ultimately dismissed months or even years later, having been deemed unlawful or procedurally invalid by other judicial authorities.

These patterns illustrate how the military judiciary has operated not as a neutral legal institution, but rather as an instrument for defending what state authorities interpret as the "raison d'État" (reason of state). In this role, the court has often prioritized perceived political stability over the rule of law or individual rights (Boutros, Saghiyeh, 2018).

A particularly illustrative example occurred on **January 30, 2017**, when civilian demonstrators appeared before the Permanent Military Court for the third time in connection with their participation in the **October 8, 2015**, protests. During this session, defense attorneys submitted two formal objections, challenging the court's jurisdiction over the case. The session was subsequently adjourned to **March 20, 2017**, pending a ruling on these objections.

Previously, on **November 11, 2015**, First Military Investigative Judge **Riad Abu Ghida** issued a decision to prosecute fifteen activists. The charges based on Articles 346 and 348 (Legal Agenda, 2017a) of the Lebanese Penal Code included forming riotous groups and failing to disperse upon orders from security forces. These legal provisions are often criticized for their vague language and susceptibility to abuse, especially when applied in contexts of peaceful assembly.

Ultimately, on **March 20, 2017**, the Military Court ruled that it lacked the jurisdiction to try the protesters. The court referred the fourteen accused individuals both male and female—to the civilian judiciary for trial before the **Single Criminal Judge in Beirut** Legal Agenda (2017b). This ruling implicitly acknowledged the court's earlier overreach and reinforced the argument that military tribunals should not have jurisdiction over civilians, particularly in matters involving peaceful protest and public expression.

This case exemplifies the systemic misuse of military courts to manage political dissent and the pressing need for structural reforms that ensure judicial proceedings adhere to principles of fairness, legality, and civilian oversight.

DIFFERENT ABUSES AND ACCUSATIONS

Minors have appeared before the Lebanese military court as co-defendants alongside adults. In such cases, the minor undergoes military prosecution, interrogation by the investigative judge, and initial trial proceedings before being referred to the Juvenile Court—often after a delay of three to four months. Verdicts may take up to two years, after which the Juvenile Court determines sentencing if a conviction occurs.

Membership in criminal gangs, which falls outside the jurisdiction of the military judiciary, should be handled by the civilian criminal justice system. Nevertheless, cases involving Articles 5 and 6 of the Anti-Terrorism Law have sometimes been channeled through military courts under questionable legal cover. These charges often lack the evidentiary weight required for a terrorism conviction and are sometimes used similarly to narcotics charges as a means to justify military jurisdiction¹⁷.

One of the most serious and politically sensitive charges in Lebanon is collaboration with Israel. These accusations have often been deployed arbitrarily for personal or political motives. A prominent example is the case of actor Ziad Itani, who was falsely accused by Lieutenant Colonel Suzanne Hajj. Arrested in November 2017, Itani was allegedly tortured by officers of the General

¹⁷ Interview with attorney Mohamad Sablough, 21 May 2024.

Directorate of State Security (GDSS) until he confessed. Human Rights Watch reported that he was held incommunicado for six days, subjected to beatings, stress positions, electrocution—including on his genitals—and threats against his family. Despite reporting the torture to the Military Court, no investigation followed. He was eventually acquitted in May 2018, and a high-ranking officer was charged with fabricating evidence, yet no GDSS personnel were investigated.

According to attorney Diala Chehadeh, Lebanese law distinguishes between “communication” and “collaboration”: the former does not entail intent to provide services to the enemy, while the latter does. Court rulings have made this distinction, yet its application remains inconsistent.

In Lebanon, the constitution provides for freedom of expression, including freedom of expression of the press, and stipulates that restrictions may be imposed only under exceptional circumstances¹⁸. The government generally respected this right, but there were some restrictions, particularly regarding political and social issues. Individuals are generally free to criticize the government and discuss matters of public interest; however, several legal restrictions limited this right. The law prohibits discussing the dignity of the president or insulting him or the president of a foreign country. The Military Code of Justice prohibits insulting the armed forces, and the Military Court prosecuted civilians under this statute. According to attorney Chehadeh: “The Military Court in Lebanon is used to repress various forms of freedom of expression and protest. We have seen this with Syrian political opponents, whether they were involved in the armed conflict without violating international laws related to armed conflict or those who were not involved in the armed conflict, i.e. defectors from the regular Syrian army or those who joined civil protection committees in Syria... Lebanese civilians who participated in the 2019-2020 demonstrations were prosecuted in front of the Military Court, for offenses ranging from rioting to assaulting public property, and were harshly treated by military agencies on account of terrorism charges”¹⁹.

Hanin Ghaddar, who is known for her criticism of Hezbollah, the powerful Lebanese Shiite armed movement, lives in the United States, where she works for an American think-tank, the Washington Institute for Near East Policy. She was convicted on January 10, 2018, and sentenced in absentia to six months in prison by a military court for criticizing the army on charges of “defaming” and “damaging the reputation of the army and accusing the military institution of discriminating between Lebanese citizens”, at a conference in Washington in 2014. At the Washington conference, Ghaddar had, in describing the situation in Lebanon, asserted that “the Sunni community is repressed by the Lebanese army and Hezbollah, while the Hezbollah militia is untouchable”.

On June 24, satirical comedian Shaden Fakih appeared in court where she was convicted and fined 1,800,000 Lebanese pounds following a case filed by the Military Public Prosecution against her on charges of harming the reputation of the Internal Security Forces (ISF) and defaming its members over what became known as the “Kotex call” (i.e. sanitary napkins). The session also witnessed a defense campaign against trying the civilians before the Military Court.

Two years ago, during the third lockdown as part of the government’s measures to combat the spread of the coronavirus pandemic in Lebanon, especially the curfew after 5 p.m., Shaden Fakih dialed 112 to ask the ISF for help in obtaining sanitary pads as she was unable to go outside due

¹⁸ https://www.constituteproject.org/constitution/Lebanon_2004.

¹⁹ Interview Attorney Diala Chehadeh, 20 May 2024.

to the curfew. She based her move on “the directives of former Minister of Interior and Municipalities Mohammad Fahmi, who stated that citizens can call the security forces by dialing 112”.

The trial of civilians before the Military Court was the subject of an argument by Shaden’s attorney Ghida Frangieh, head of the litigation department at Legal Agenda, who explained the reasons why the court can declare unfit to hear the case because Shaden is a civilian who “does not belong to any military or security service”. As Frangieh explained: “Article 2 of the Code of Civil Procedure allows the court to exclude the application of the Code of Military Justice, which grants broad powers to try civilians for any criminal dispute between civilians and military personnel, because it conflicts with international conventions that enshrine the right to a fair trial”.

Frangieh continued her argument against military trials for civilians, something which is rarely discussed before the Military Court. This is the so-called rejection defense, in which the attorney’s defense is not limited to technical arguments but goes beyond them to delegitimize a specific law and express a rejection of the entire system. A number of civilians who were prosecuted for their participation in the Waste Movement protests in 2015 filed a similar defense in 2017, but the court rejected it without explanation.

As Saghie argues: “When it came to stopping the protesters, it failed because the Military Court was deemed invalid, but by the time the youth was arrested, humiliated, beaten, and given 10-15 days in prison to scare them, they succeeded to a large extent in stopping the determination of the youth. It is all due to the fact that it is an exceptional court and one can except everything bad from it”²⁰.

Frangieh justified her request for the court to declare it unfit to try Shaden on the grounds that “the military judiciary is an exceptional judiciary, which follows exceptional procedures different from normal procedures, and lacks the fair trial guarantees that exist before ordinary courts”.

She gave two examples of the guarantees that civilians lose when they are tried before the military judiciary. The first is “the absence of reasoning in the judgments issued by the military judiciary”, which means that the judgment that will be issued against Shaden will not explain why she is innocent or guilty, and reasoning is one of the most important guarantees for a fair judgment.

The second safeguard that civilians are missing, according to Frangieh, relates to “how military courts are constituted, which contradicts the right to trial before a natural judge and an impartial tribunal.” She added: “Since military courts specialize in trying military personnel and include non-civilian judges who belong to the military and security services and are subject to their regulations and hierarchies, this raises legitimate doubts among civilians about the impartiality of the court, regardless of the personality of the judges, and makes civilians feel that the court is biased against them.” In other words, “the concept of apparent impartiality is related to the structure of the court, not the personality of the judge”.

Frangieh stressed the importance for attorneys to file a rejection defense in military courts whenever possible “to prevent the normalization of military trials for civilians until the military justice law is amended” (Ayyoub, 2022).

²⁰ Interview with Nizar Saghiyeh, 13 May 2024.

FAIR TRIAL GUARANTEES

A 2016 Arabic-language study by Justicia and the Konrad Adenauer Stiftung, titled “*Military Court and Fair Trial: Redefining Powers*”, proposed a model of military justice in Lebanon aligned with fair trial principles. These include the right to an independent judiciary, transparent proceedings, and reasoned verdicts²¹.

However, Lebanese military courts consistently fall short of these standards. As Saghieh and Hala Hamze argue, the process often excludes victims, prohibits interference or self-defense, and disallows evidentiary submissions. In one case, a man was sentenced in absentia by the Military Court without ever knowing a trial had occurred—he only discovered it while at General Security.

Default judgments and trials in absentia are common, often stemming from poor notification practices by military personnel rather than inaccurate addresses. On a single court day, 20 out of 45 misdemeanor cases were decided in absentia (Barjes, 2019).

The justification often cited for maintaining the Military Court’s broad jurisdiction is Lebanon’s ongoing “exceptional circumstances,” (Barjes, 2018) especially the threat of terrorism. Yet, military courts have become an ideal venue for the systematic use of torture—especially in terrorism cases—due to a lack of oversight and the absence of fair trial guarantees.

Although Parliament passed Law 65 criminalizing torture in 2017, it removed a provision that would have required such cases to be exclusively tried in civilian courts. The result is continued impunity for acts of torture, particularly among Islamist and terrorism suspects.

Attorney Hala Hamze observes²² that the definition of terrorism has become dangerously expansive and politically motivated, allowing the charge to be applied arbitrarily. Even after serving sentences, individuals convicted under Article 303 (for terrorism) continue to be monitored and subjected to potential re-arrest under army orders, with credible allegations of continued abuse.

These practices suggest that the Lebanese state lacks genuine political will to counter extremism through legal and rehabilitative means. While official strategies and platforms exist, they remain largely performative and disconnected from implementation on the ground.

TORTURE ALLEGATIONS AND JUDICIAL PRACTICES

Human rights organizations have reported incidents of abuse in several police stations. While the government denies the systematic use of torture, authorities have acknowledged that violent abuse sometimes occurs during preliminary investigations at police stations or military installations, where suspects are interrogated without the presence of legal counsel

²¹ Interview with Nizar Saghieh, 13 May 2024, and Hala Hamze 30 April 2024.

²² Interview with Hala Hamza, 30 April 2024.

Allegations of torture are often dismissed as unsubstantiated in the absence of forensic medical reports. Courts have relied on this lack of evidence to ignore claims of abuse. Attorneys are frequently prevented from meeting with their clients during detention at the Ministry of Defense. The situation is even more concerning for detainees held by the Information Division of the General Security, where detainees are often omitted from official records and effectively rendered forcibly disappeared. Authorities implicated in acts of violence and torture frequently delay presenting detainees before judges until the visible effects of torture have subsided. Lawyer Sablough reported that some of his clients appeared before investigative judges bearing visible signs of torture, a pattern particularly common among individuals accused of terrorism, as seen in the case of Bashar Abdul Saud²³.

Sablough emphasized the difficulty of holding security personnel accountable for torture. “To pursue a security force member accused of committing torture is really important but we are facing problems with this issue because they are not receiving our complaints, they are putting them in the drawer.” For example, in the Military Court, two attorneys planned to file a complaint against those judges, because “we consider that they have been beyond their prerogatives, but we lack the mechanism that allows us to pursue this judge who is at the same time an officer. The president of the court is an officer, so how can I pursue him in trial? There is no way for that.”

In one notable instance, following arrests in Nahr el-Bared, 35 individuals were found to be innocent after years of detention. According to legal expert Saghiyeh, recent investigations showed some progress, but interference in cases remains rampant. “The public prosecutor did a good job, then there was a reconciliation and the whole system entered, the facts were stabilized, the process exists, but interference is also present and abundant. The public prosecution did not want to pursue torture cases. Internationally, torture cases should not be tried in the military court, how do you try victims in front of the executioner? That is what a fair trial looks like. The issue is the conviction of the court, not the judges” (Cherri, 2021).

Shuaib’s case is one of hundreds of arbitrary cases pursued by the Military Public Prosecution against protesters. Hassan Shuaib filed a torture complaint in December 2019, supported by a forensic medical examination detailing physical injuries, including a fractured thumb, scratches, bruises, and the need for medical braces.

The forensic doctor’s report, presented during Shuaib’s court hearing, detailed his examination conducted the day after his arrest and subsequent treatment at the emergency room of the American University Hospital for injuries sustained from beatings and torture.²⁴

Shuaib also recounted the legal violations he experienced during his interrogation at the Beydoun police station in Achrafieh. He was interrogated without the presence of an attorney, a clear violation of Article 47 of the earlier version of the Code of Criminal Procedure, which guarantees the right to legal representation. Additionally, Shuaib was denied contact with his family or friends throughout his detention. Despite the Red Cross’s recommendation, following their examination at the police station, that he urgently be transferred to a hospital for treatment, authorities refused to comply, exacerbating his suffering and neglecting his basic rights.²⁵

On November 13, 2019, activist Khaldoun Jaber was forcibly abducted by three security personnel in civilian clothes during a protest near Baabda Palace road. Jaber was transferred between various

²³ Trial Monitoring Report of Bashar Abed Saoud Case <https://ccls-lebanon.org/trial-monitoring-report-of-bachar-abed-saoud-case/>.

²⁴ Ibid.

²⁵ Ibid.

barracks, with authorities denying his detention. Jaber was eventually revealed to be in the custody of Army Intelligence. During detention, he suffered physical and psychological abuse, including sexual violence. A forensic report documented injuries, including four broken molars, partial hearing loss in his left ear, a spinal sprain, and widespread bruising. He was denied access to his family and legal counsel throughout his case (Ayyoub, 2020).

The documented cases of torture, the lack of accountability for perpetrators, and the failure of judicial mechanisms to address these abuses underscore the urgent need for reform. Current practices undermine the rule of law and violate international human rights standards. Without systemic changes to ensure transparency, independence, and accountability within judicial and security institutions, such violations are likely to persist.

PART II: IN-DEPTH CASE STUDIES

CASE STUDY 1

Ibrahim Dahsheh²⁶ was arrested at the Ein al-Hilweh Palestinian refugee camp checkpoint in Sidon on May 20, 2019, based on informant reports. Such practices are common in Palestinian refugee camps. The army assured him that the verification of the allegations would only take a few days, after which he would be released. However, Ibrahim was handcuffed, blindfolded, and taken to an undisclosed location.²⁷ At the Army Intelligence Center, Ibrahim was not informed of the reasons for his arrest and was denied access to an attorney or family during the initial stages of his detention. He was interrogated by the investigative judge in the south for five days before learning the allegations against him. Ibrahim recounted, “I did not understand why they stopped me until I was transferred to the Ministry of Defense, where they said I was a member of Jund al-Sham and that I participated in the battle of al-Tireh, which was not true”²⁸. At the Ministry of Defense in Beirut, intelligence officers interrogated him an additional seven days. He was then transferred to the military court in Beirut, where the investigating judge initially decided not to try him. Despite this, Ibrahim was detained at the military court for seven more days before being transferred to prison to await trial. During this entire period, Ibrahim’s family was unaware of his whereabouts, as security personnel refused to acknowledge his detention. Family members were left wondering about his absence. Ibrahim stated: “My father was looking and asking for me, but the security staff told him I was not there”²⁹. He was finally allowed to contact his family after being transferred to Roumieh prison, over two weeks after his arrest. His father visited him a month later.

Throughout his detention, Ibrahim was denied fundamental rights. He was not informed of the reasons for his arrest, nor was he made aware of his right to an attorney, violating both Lebanese law and international legal standards. Article 9(2) of the International Covenant on Civil and Political Rights (ICCPR) and Article 14(3) of the Arab Charter on Human Rights mandate that arrested individuals is promptly informed of the charges against them. These violations reflect systemic failures in upholding fair trial rights (Alef, 2008).

Ibrahim reported that he was denied access to legal counsel during interrogations and was only able to meet with an attorney after being transferred to the military court. Ibrahim said: “The attorney was never present during the interrogations because I was not allowed access to legal counsel before reaching the military court”³⁰. According to his lawyer, as a detainee, Ibrahim has the right to inform a third person that he has been arrested or detained and where he is being held and the right to communicate without delay with his family, attorneys and doctors: “the right to inform a third party of detention must be guaranteed, in principle, from the beginning of police custody”³¹. Failure to allow a detainee to notify family or an attorney of their detention and whereabouts violates international law and standards³². Detained and imprisoned persons have the right to contact the outside world, subject only to reasonable conditions and restrictions. Detention

²⁶ Consent has been sought for all cases.

²⁷ Interview done on 19 May 2024.

²⁸ Ibid.

²⁹ Ibid.

³⁰ Ibid.

³¹ Interview done on 10 May 2024.

³² Concluding observations of the Human Rights Committee: Thailand, para. 15 (2005) CCPR/CO/84/THA.

in custody facilitates torture or other ill-treatment and enforced disappearance, which occurs when the state refuses to acknowledge detention or conceals a person's fate or whereabouts.³³ International law prohibits subjecting people to enforced disappearance.³⁴ In September 2020, a new law was adopted to protect defense rights. The Code of Criminal Procedure did not explicitly stipulate that the accused must be assisted by an attorney at the initial stage of interrogations,³⁵ and as a result, the accused usually did not meet with an attorney before facing the investigative judge, in violation of international law, according to Halawi³⁶. Law No. 191 of 2020/01/30 explicitly states that detainees have the right to meet with an attorney during initial interrogation in Articles 76, 78, 79, 82, and 83 of Law No. 191 of 2020/01/30, but the law has not been comprehensively applied to date.

Ibrahim Dahsheh said during his interrogation at the Defense Ministry: "The interrogator told me: 'You will not leave without a file being open for you with charges against you. He spoke to me in an aggressive and hostile manner. He accused me of terrorism.'³⁷" Everyone is entitled to be presumed innocent and treated as innocent unless and until they are convicted according to law in the context of judicial proceedings that meet at least the minimum requirements of due process.³⁸ During interrogations at the Ministry, security agents used a wide range of methods to mistreat Ibrahim, he said. These included mock executions, the use of electrical devices, specific methods of torture with instruments, as well as repeated beatings and threats of a dog.

Ibrahim went to court 15 times. Each time his hearing was postponed because there were 40 people together with him in his file. Ibrahim, like many others, faced excessive delays prior to appearing before the investigative judge in the first session and during the trial proceedings, due to the number of defendants in the file, ranging from 30 to 60 on average.

In the Lebanese judicial system, the interrogation session is the initial opportunity for a prosecuted person to be released on bail. A number of hearings may then be held prior to the sentencing hearing, according to Articles 111 to 146 of the Lebanese Penal Code promulgated on 11/03/1943. Ibrahim was found innocent of the terrorism charges "due to doubts and insufficient evidence". Court documents indicate that the charges against Ibrahim relied mainly on coerced confessions, self-incrimination, and information from cell phones that were presented as evidence. In the end, Ibrahim spent 18 months in pretrial detention.

The International Covenant on Civil and Political Rights (ICCPR) and other international legal instruments enshrine the right to personal liberty.³⁹ An individual may be lawfully deprived of his or her liberty only on the basis of and in accordance with procedures established by law.⁴⁰ International law prohibits arbitrary arrest, detention or imprisonment⁴¹. To avoid arbitrariness, states must ensure that deprivation of liberty is in accordance with the law, proportionate, not

³³ *Ibid.*

³⁴ Article 2 of the International Convention for the Protection of All Persons from Enforced Disappearance

³⁵ Law No. 191 of 2020/01/30

³⁶ Interview done on 10 May 2024.

³⁷ Interview done on 19 May 2024.

³⁸ Article 14(2) of the International Covenant on Civil and Political Rights.

³⁹ Article 9(1) of the International Covenant on Civil and Political Rights, Article 14(1) of the Arab Charter on Human Rights (2004)

⁴⁰ Article 9(1) of the International Covenant on Civil and Political Rights, Article 17(2)(a) of the International Convention for the Protection of All Persons from Enforced Disappearance, to which Lebanon is a party, Article 37(b) of the Convention on the Rights of the Child, and Article 14(2) of the Arab Charter on Human Rights, to all of which Lebanon is a signatory.

⁴¹ Article 9(1) of the International Covenant on Civil and Political Rights, Article 37(b) of the Convention on the Rights of the Child, and Article 14(2) of the Arab Charter on Human Rights.

excessive, and includes procedural safeguards. Under Lebanese law, arrest and detention on suspicion of terrorism are lawful provided they are duly based on and in accordance with other relevant domestic legislation⁴². However, domestic laws authorizing arrest and detention, as well as domestic laws setting out the procedures for arrest and detention - must comply with international law and standards.

CASE STUDY 2

On October 17, 2023, Jalal Kanjo, a Lebanese juvenile born in 2007, was arrested in the vicinity of his residence in al-Tabbaneh, while he was at a computer game store, by a patrol from the Internal Security Forces Information Division in Tripoli. The arrest was made without any explanation of the reasons for the arrest. Accusations were related to terrorism by the Information Branch of Beirut in Tripoli, north Lebanon. In the initial interrogations, he was not allowed to have an attorney, he was not shown any arrest warrant by the security members; instead, Kanjo was taken to the Achrafieh police station. Twelve days after his arrest he called his family and 15 days after his arrest, the family visited him for the first time.

On October 17, 2023, he was interrogated for the first time before Military Investigative Judge Fadi Sawan, and on November 22, 2023, his attorney, Ms. Norman Halawa, attended the interrogation with him.

Was he informed of the charges against him? If yes, what are the charges? The answer is no. The authority ended up renewing his detention.

He was detained in the building C at the Directorate and after about 20 days of detention he was transferred to juvenile detention. He could not see a doctor. Every 15 days his family could visit him once.

He was tortured by members of the Information Division who arrested him, where he was kept in dark interrogation rooms for long days exceeding two weeks, with beatings and cruel torture, as he was burned with a cigar lighter, hung in a “blanco” position, and exposed to pepper, all to extract confessions from him by force, while his attorney filed a complaint of torture before the Military Public Prosecution, which was not considered until December 11, 2023.

He was forced to make a confession and sign a statement under torture, but what he confessed does not constitute conclusive evidence of his membership in a terrorist organization.

After the issuance of the indictment, i.e. after November 14, 2023, when the file was filed with the Military Public Prosecution, he was able to communicate with his attorney. The latter was not allowed to access the prosecution file. Jalal was subjected to torture but no action was taken, such as having him seen by a forensic doctor.

On December 11, 2023, the attorney submitted a complaint for the torture he was subjected to, but to no avail. In the same request, the attorney asked the Court to appoint a forensic doctor again to no avail. The next hearing is scheduled on May 15, 2024.

On December 11, Jalal’s attorney filed a complaint with personal jurisdiction to the Public Prosecutor’s Office in Beirut, complaining that Jalal was subjected to torture, beatings and cruel

⁴² Especially the texts and provisions of the Law of 1958/01/11, the Penal Code, the Code of Criminal Procedure No. 328 of 2001/08/02, and the Military Justice Law No. 24 of 1968/04/13, Available at: 244405=http://legiliban.ul.edu.lb/Law.aspx?lawId.

treatment, as well as alleging violations of the Law 65/2017 and refusal to apply Article 47 of the Code of Criminal Procedure.

CASE STUDY 3

This case study examines the grave injustices faced by Rabih Fadel Zakaria, a Lebanese citizen born on February 20, 1983. Mr. Zakaria served in the Lebanese Army, as a Staff Sergeant, for over 18.5 years. His experiences highlight significant human rights violations, including torture, arbitrary detention, and wrongful dismissal.

Corporal Khader Rashid gave Rabih 100 counterfeit dollars. They were both called on August 31, 2022, to Mount Lebanon police station to investigate the counterfeit currency, without any arrest warrant.

Rabih was not brought before any judicial authority, but was interrogated at the center without the presence of an attorney, and after the end of the interrogation, he was released on the advice of the public prosecutor.

Rabih was a victim of torture. In order to force him to withdraw his accusations against Corporal Khader Rashid, a policeman at the Mount Lebanon police station removed his glasses, blindfolded his eyes, wet his hands, did not let him eat or drink until he was brought in for interrogation and forced him to stand on one foot, not allowing him to sit or sleep. He was beaten by the interrogator on his thigh and his right hand, the guard was also asked to beat him and he actually inflicted around 4 or 5 consecutive blows and asked him to take off the shoes and they hit him under his feet about 4 or 5 times in a row on each leg. The victim reported on what he is subjected to. A report was organized and he was interrogated on the issue of beating but to no avail, so that he did not follow up.

He was forced to make a confession under torture, but he only told the truth.

After the end of the interrogation, he visited the military medical clinic and was examined for signs of torture.

Despite reporting the abuse internally and seeking justice, Mr. Zakaria was unfairly dismissed from the army and faced further retaliation when pursuing legal avenues for redress. His case, meticulously documented by the Cedar Centre for Legal Studies (CCLS), underscores egregious violations of international human rights standards, including the United Nations Convention Against Torture (UNCAT) and the International Covenant on Civil and Political Rights (ICCPR). Moreover, the actions against Mr. Zakaria contravene Lebanon's Anti-Torture law, Law No. 65/2017, and demonstrate a clear breach of Article 47 of the Lebanese Criminal Procedure Law.

The case of Mr. Rabih Fadel Zakaria exemplifies severe human rights violations and the failure of Lebanese authorities to uphold international and domestic legal standards. Despite legal reforms, the practical application of laws protecting individuals from torture and ensuring fair trials remains inadequate. This case calls for immediate action to address these violations and ensure justice for Mr. Zakaria.

On a domestic level, on September 19, 2017, Lebanon enacted Law No. 65, which criminalizes torture. The Law consists of six Articles. Notably, the first Article amends an existing provision in the Penal Code (Article 401) that previously criminalized "violent practices" aimed at extracting confessions. The amended Article now provides a clear definition of torture. The other Articles

cover topics such as orders related to torture, evidence, investigation procedures, and the Law's effective date.

Back in 2020, Article 47 of the Lebanese Criminal Procedure law was amended to enhance defense guarantees for detainees. It allows attorneys to be present during initial interrogations at security agencies, ensuring detainees' access to legal representation from the moment of detention.

Despite legal reforms, the practical application of both the amended Article 47 of the Lebanese Criminal Procedure Law and Law No. 65/2017 remains challenging in Lebanon. Although over five years have passed since the enactment of the Anti-Torture Law, authorities have yet to fully implement it.

At an international level, Lebanon ratified the ICCPR in 1972 and the UNCAT in 2000. Lebanon is also a party to the Optional Protocol to the Convention against Torture since 2008. Despite these commitments, the implementation and enforcement of relevant laws remain inadequate in the case of Rabih Zakaria.

Timeline of Events

August 21, 2022: Mr. Zakaria reported a counterfeit money incident involving his colleague, to his superiors, without resolution.

August 31, 2022: Summoned by the Mount Lebanon Military Police, Mr. Zakaria was tortured to force a false confession, without legal representation.

September 1, 2022: Mr. Zakaria reported the torture to his battalion commander and was examined by a military doctor, but no action was taken.

January 16, 2023: Summoned again by the Lebanese Army Command, he did not attend, fearing further torture, resulting in his dismissal without compensation.

January 15, 2024: Legal Support Program at CCLS submitted a memorandum on his behalf to the Lebanese Army Command.

April 4, 2024: Legal Support Program at CCLS filed a torture complaint against the Mount Lebanon Military Police investigators.

May 21, 2024: Summoned by the Military Investigative Judge, Mr. Zakaria faced charges of promoting counterfeit money in retaliation for his complaint, leading to his arbitrary detention.

May 22, 2024: Legal Support Program at CCLS appealed his detention, but the appeal has not yet been considered.

Legal Violations

The actions against Mr. Zakaria violate several legal provisions:

Lebanese Law No. 65 (2017), Article 5, Paragraph (3): protection for complainants and witnesses was violated.

Lebanese Code of Criminal Procedures, Articles 15 and 47: Mr. Zakaria was denied legal representation.

UNCAT, Articles 2, 4, 13, and 16: failure to prevent torture, ensure accountability, and protect complainants.

ICCPR, Articles 7, 9, and 14: Prohibition of torture, right to liberty and security, and right to a fair trial were breached.

Mr. Zakaria's arbitrary detention falls under categories I, II, III, and V of the Working Group on Arbitrary Detention's (WGAD) working methods:

Category I: deprivation of liberty without legal basis.

Category II: deprivation of liberty resulting from the exercise of fundamental rights or freedoms.

Category III: non-observance of international norms relating to the right to a fair trial.

Category V: deprivation of liberty for discriminatory reasons.

CASE STUDY 4

Bilal Hani Mohammad Hussein is an Egyptian citizen. He lives in Tripoli. On October 6, 2022, he was arrested at Al Shiraa square in Abou Samra in Tripoli by members of the ISF. The members were dressed in civilian clothes but identified themselves as belonging to the Information Branch in the Internal Security forces. However, they did not show any arrest warrant nor explained the reason of arrest. Subsequently, he was taken to the headquarters of the Information branch in Beirut.

During his arrest, he was not allowed to contact his family or his attorney. The new amendment of Article 47 of the Criminal Procedure Law was not respected in his case.

During the first three weeks, he was subjected to torture, by the method of “Blanco” and he lost his consciousness. He was forced to sign confessions under torture. Afterwards, he woke up but was in hospital.

After three weeks, he was brought for the first time before the military investigative judge, also in violation of Article 32 of the Criminal Procedure Law. In the first session, no attorney was present and the defendant informed the judge that he was subjected to torture, but the judge did not open investigations into the allegations of torture.

On November 17, 2022, Hussein’s attorney submitted a complaint on the account of torture before the Public Prosecutor of the Cassation Court and before the military investigating judge.

The above-mentioned acts constitute a violation of the following laws:

- Law 105 issued on November 30, 2018, in its first Article, second paragraph, defines an enforced disappearance of a person as the situation where a person is missing as a result of arrest, detention, abduction or any form of deprivation of liberty by state agents, groups or persons, followed by the consent not to recognize the deprivation of liberty or concealment of the person’s fate or whereabouts, which deprives them of the protection of the law. This applies to the case of the above-mentioned young people who were forcibly disappeared from the date of their arrest. Article 37 of the same law punishes any instigator, perpetrator, accomplice or intervener in the crime of enforced disappearance with a penalty of hard labor from five to fifteen years and a fine from fifteen million lira to twenty million Lebanese pounds.
- Violation of the first paragraph of Article 47 of the Code of Criminal Procedure by not allowing the aforementioned youth to contact a member of his family, his employer, a lawyer of his choice to attend the investigations, or an acquaintance.
- Violation of Article 367 of the Penal Code, which punishes with temporary hard labor any official who arrests a person in cases other than those stipulated in the law.
- Violation of Law 65 issued on October 20, 2017, which criminalizes all forms of torture and other forms of cruel, inhuman or degrading treatment or punishment, especially in Article 1 of the law.
- Violation of Article 32 of the Criminal Procedure Code, which stipulates that “the public prosecutor or public defender may prohibit anyone found in the place where the crime was

committed from leaving it, whoever violates the prohibition decision shall be prosecuted before the single judge affiliated with the place where the crime was committed”.

RECOMMENDATIONS

Considering the proposal of the sub-committee of the Parliamentary Administration and Justice Committee for a law to amend the articles of the Military Justice Law, in addition to repeated workshops from lawyers, jurists and human rights organizations. Acknowledging the politicization of the military judiciary in a country of sectarian quotas, Cedar Centre recommends the following:

- 1- Reassure the independence of the military judiciary by assuring the application of the judicial guarantees during the hearing of cases brought before military courts.
- 2- Develop clear procedures for reviewing and overseeing decisions of military courts.
- 3- Limit a discretion of the Minister of National Defense when deciding on whether to refer the case to the ordinary courts i.e. set out the conditions under which this is necessary (for example, in the most sensitive cases, where it is difficult to expect independence of the military court).
- 4- Make sure that the equality of citizens before the courts is guaranteed regarding the internationally recognized right to a fair trial.
- 5- Institutionalize a mechanism to apply the International Covenant on Civil and Political Rights, the Universal Declaration of Human Rights, the resolutions of the United Nations General Assembly, and the recommendations of its human rights committees.
- 6- Apply Article 5 that stipulates that the ordinary courts are competent to prosecute the original perpetrator, accomplice, intervener, instigator or concealer if he is a civilian, even if there are military personnel referred for the same offense before the military judiciary.
- 7- Allow the exercise of the right of defense and the rights of the prosecution of the civilian before the military judiciary.
- 8- Assign a Military Court president and appoint members with a law degree.
- 9- Consolidate judicial guarantees during the hearing of cases brought before military courts.
- 10- Sensibilize the civilian judges in the Military Court to conduct serious preliminary investigations after the investigation of the security services.
- 11- Ensure timely proceedings and inclusive legal representation, by allowing the accused's family and their legal representatives to present evidence and participate fully in the trial.
- 12- Maintain public hearings and provide detailed justifications for any exclusions of evidence or witnesses.
- 13- Limit the use of Military Courts: In accordance with the Human Rights Committee's recommendation, review and restrict the jurisdiction of military courts, transferring the competence of all trials concerning civilians and human rights violations by military personnel to ordinary courts.

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