

13 February 1997
AI Index MDE 18/05/97

Human Rights Committee Briefing

LEBANON

Introduction

Lebanon was ravaged by a bitter civil war which lasted for 15 years (1975-90). During this tragic era state institutions, including the army, collapsed and so did the rule of law. Consequently, various human rights abuses such as killings of non-combatants, abduction of Lebanese, Palestinian, and foreign nationals and arbitrary detention, were committed by various armed militias, and foreign military forces which entered Lebanon either as invaders, or in support of one or the other of the factions.

With the effective ending of the war in 1990, and the disbanding of the militias in 1991, a new page seemed to have turned in Lebanon's history. Gradually the country returned to normal life and the state was able to enforce its authority in most of the country by 1993/94. However, a strip of land in south Lebanon has remained under the occupation of Israel and its proxy militia the South Lebanon Army. Also, with the agreement of the Lebanese government, Syrian forces (estimated at around 35,000 troops) remained deployed in the country.¹

Return to normal life after the end of the civil war, the disbanding of the militias, and the enforcement of state authority have created conditions conducive to the restoration of the rule of law and respect for human rights. Like other institutions the judiciary started to function normally, which in its turn provided grounds for the activation of the necessary safeguards for the protection of individual rights within the law.

Unlike in 1983 when Lebanon presented its first report to the Committee, there are now enforceable mechanisms in place for Lebanon to honour its obligations under the International Covenant of Civil and Political Rights and the positive implementation of these obligations. Furthermore, compared with the civil war period the human rights situation has definitely witnessed a noticeable improvement. However, Amnesty International has noticed that there appears to be more emphasis on security and enforcement of the state authority, than is given to

¹In May 1991 the *Treaty of Brotherhood, Cooperation and Coordination* was signed between Syria and Lebanon. Among other things, the agreement endorsed the deployment of Syrian forces in Lebanon the size and duration of which was to be decided by the two governments.

the respect and protection of individuals' rights. In the experience of Amnesty International this emphasis on security and order may well open the door to human rights violations. Indeed as well as the above-noted progress since the end of the civil war the same period has also witnessed disturbing developments. This includes:

- a ban on demonstrations imposed in 1993, which has remained in force ever since,
- expansion of the death penalty legislation in 1994 and the carrying out of six executions since then,
- waves of arbitrary arrests and detention of suspected political opponents or on security grounds;
- allegations of torture and ill-treatment which were not fully investigated by the authorities.

This briefing focuses on these areas, and is the result of Amnesty International's monitoring of, and reaction to, human rights developments and violations since 1990.

1) Article 9: Right to Liberty and Security of Person

Since the end of the civil war in 1990 until the present, hundreds of people have been arrested for political or security reasons, by the army, security forces, military police, and Syrian military personnel in Lebanon. These arrests fall into three categories: the first relates to arrest and detention of possible prisoners of conscience²; the second relates to waves of arrests and detentions which take place following politically motivated acts of violence, and target a particular group or groups; and the third category relates to the arrest, interrogation and detention of Lebanese citizens by Syrian military or intelligence personnel in Lebanon.

Possible Prisoners of Conscience (*Cases under this category also relate to Article 19 of ICCPR on Freedom of Expression*)

Most of those under this category were arrested in connection with political opposition groups or activities. In many cases the arrests were connected to distribution of leaflets or expression of an opinion critical of the Lebanese Government or of the Syrian presence in Lebanon. Those arrested were detained for various periods of time ranging from a few days to weeks or months. Most were released without charge, while some were charged with security-related offences and appeared before the Military Court.

For example, in May 1992 six supporters of former President Amin Gemayel were reportedly arrested by military police at Ba'bda after distributing leaflets criticizing the Treaty of Brotherhood, Cooperation and Coordination. All six were released after interrogation without charge. In another case, Marie Abu Yusuf was arrested by the army in June 1992 in the al-Batrun region after distributing leaflets critical of the Ta'if Accord and of several Lebanese politicians. Her case was referred to the military court.

²The term "prisoners of conscience" refers to the imprisonment, detention or other physical restrictions imposed on any person by reason of his or her political, religious, or other conscientiously held beliefs, or by reason of his or her ethnic origin, sex, colour, language, national or social origin, economic status, birth, or other status, provided that he or she has not used or advocated violence.

Between July and November 1993 over 120 supporters of General Michel 'Aoun were arrested by the military authorities. The majority were held in the Ministry of Defence building in al-Yarzeh, Beirut³. Most were released uncharged, but at least 22 were charged before the military court with distributing leaflets and acts of sabotage.

Between 9 and 12 September 1994 five Lebanese citizens: Hikmat Dib, Huda Yamin, Lina Ghurayb, Muna Shkayban, and Aleftari Atanasio were arrested by the military police on suspicion of distributing leaflets expressing opposition to the Syrian presence in Lebanon, and were kept in incommunicado detention in the Ministry of Defence building for about six days, before being officially charged and referred to the military court. Amnesty International expressed its view that the leaflet in question did not specifically advocate violent activities, and its production and distribution appears to constitute the peaceful exercise of the right to freedom of expression, as laid down in Article 19 of the Universal Declaration of Human Rights. Amnesty International wrote to the Lebanese authorities saying that if the distribution of leaflets of the same nature is the sole reason for the detention of these five people, they would be considered prisoners of conscience, and should be released immediately and unconditionally. No reply was received.

In March 1995 Joseph Najim, a reporter for *Nahar al-Shabab*, a weekly supplement of the daily paper *al-Nahar*, was held for three days, apparently for publishing an article on the anniversary of the 1982 Israeli invasion of Lebanon in which he called for the withdrawal of all foreign forces from Lebanon.

In July 1995 Muhammad al-Zughbi and Ibrahim Sannu, two members of the Lebanese Popular Congress (LPC), a Nasserite-oriented organization, were arrested and briefly detained for distributing leaflets calling for a boycott of elections for a vacant parliamentary seat. About 25 members of the LPC were arrested on different occasions throughout 1996. In February six LPC members were arrested for displaying placards criticizing government policies and were charged with the disruption of public order and security. They were tried and acquitted by the court. Five other LPC members were arrested for distributing the Congress's newspaper, *Sawt Beirut*, and released on the same day without charge in March. In September 11 LPC members were arrested for burning the US flag after the Friday sermon in front of al-Tariq al-Jadida mosque in Beirut, and released the following day without charge. Another two LPC members, Ibrahim Sannu and Muhammad al-Husami, were arrested for burning the Israeli flag and detained for five days without charge in October.

Other examples included the arrest and detention of demonstrators on many occasions (see the section on **Demonstrations** below).

The Lebanese constitution provides for protection of individual freedoms. **Article 8** states: "*Personal freedom shall be guaranteed. No person may be arrested or kept in custody except in accordance with the law. No offence may be established or penalty imposed except in accordance with the law*". **Article 9** states that "*Freedom of conscience shall be absolute*".

³The Ministry of Defence was not a recognized place of detention until January 1995 when the Government issued a Decree legalizing it as such. This followed a protest by the lawyers in the church bombing case (*see p.4 below*) who argued that their defendants were kept unlawfully in the Ministry of Defence building.

Furthermore, there is no administrative or preventive detention in Lebanese law. According to the Code of Criminal Procedures (CCP) no arrest or detention could be pursued by any force without an explicit order from a competent judicial authority.

In many of the above-cited cases Amnesty International has expressed its concern, either publicly or in confidential correspondence with the Lebanese Government, that those arrested may be regarded as prisoners of conscience who were detained solely for the non-violent expression of their conscientiously held beliefs or opinions.

Arbitrary Detention

Waves of arrests and subsequent detention took place following certain events or politically motivated acts of violence. The scope of arrests and the manner in which they were pursued raised a number of concerns for Amnesty International. In particular the organization was concerned about whether these detentions followed due legal procedure or whether they were conducted arbitrarily. The following are few examples:

On 27 February 1994 a bomb exploded in *Sayidat al-Najat* (Lady of Salvation) church at Zuq Mikael in Junieh killing 10 people and wounding others. In March and April 1994 the government dissolved the Lebanese Forces (LF) party, a former Christian militia, and ordered the arrest of scores of LF members in connection with the bombing. It was reported that during the period between the church bombing incident and the banning of the LF about 120 people were arrested. Most were released without charge after a few days, but some were held for up to three months. The LF leader Samir Gea'gea' and his deputy Fu'ad Malek were among the detainees. On 13 June 1994 22 people were charged with the church bombing, of whom eight were referred to trial (five *in absentia*) while charges against the rest were dropped by the investigating judge.

In December 1996 at least 76 people were arrested following an armed attack on a Syrian registered minibus on 18 December in the town of Tabarja north of Beirut. The driver was killed and one passenger wounded. Detainees were mostly from Christian opposition groups including members of the Lebanese National Congress (an organization which groups supporters of former military leader General Michel 'Aoun), members of the banned LF, and members of the National Liberal Party headed by Dory Cham'oun. Arrests also included Pierre Attallah, a journalist at *al-Nahar* daily paper, and human rights activist Wa'el Kheir, the executive director of the Foundation for Human and Humanitarian Rights. By the end of December 1996 all but two of the detainees, Pierre Attallah and Ghassan Bardawil, were released without charge. Pierre Attallah was charged before the military court with inciting religious or ethnic conflict, and with making contact with the enemy (Israel). He was released on bail on 6 January 1997, while Ghassan Bardawil, who was charged with distributing leaflets and damaging Lebanon's relations with a friendly country (Syria), was released by the investigating judge at the military court on 31 December 1996. None of the detainees was charged with the attack of Tabarja, the event which presumably sparked this wave of arrests.

In both these waves of arrests Amnesty International was concerned that particular political groups were apparently targeted in a clamp down which did not give sufficient regard to the right to liberty and security of person as provided for by the ICCPR and Lebanon's own legislation. The fact that most of those arrested in connection with these incidents were eventually released without charge shows the arbitrary nature of the arrests.

Furthermore, it appears that these waves of arrests contradict Lebanon's obligations under the ICCPR as well as the Lebanese criminal justice legislation. For instance:

- Arrests were carried out by the military or military intelligence in contravention to the Lebanese code of Criminal Procedure (CCP), article 12⁴;
- Most of the arrests were carried without arrest warrants from the concerned judicial authorities, contrary to the provisions of the CCP Articles 100-103 and 105-107. CCP Article 428 requires prosecutors and investigating judges as well as judicial officers to release immediately any prisoner who is not detained under a proper arrest warrant; otherwise they become liable to prosecution for aiding unlawful imprisonment;
- Detainees were kept in incommunicado detention without access to lawyers, contrary to Article 73 of CCP which gives detainees the right to confidential access to their lawyers;
- In the case of those arrested in connection with the church bombing in 1994, they were kept in the Ministry of Defence building at Yarzeh, which was not a recognized place of detention at that time, in contravention of Articles 427 and 428 of CCP;
- Even though the Ministry of Defence was legalized as a place of detention in 1995, detainees in the clamp down of December 1996 were still held at the Ministry Building outside any judicial framework as no judges were involved in their interrogation, no formal charges were brought against them, and no case files submitted to any court in relation to them. Amnesty International is not aware that any *habeas corpus* remedies were made available to them during their unlawful detention.

Arrests by Syrian military personnel in Lebanon

Cases under this category are of a complex nature, partially because detentions are mostly not acknowledged by Lebanese or Syrian authorities. Amnesty International has received reports that inquiries made by relatives of detainees to Lebanese authorities are met either with denial or indifference.

Amnesty International is aware of at least 200 Lebanese nationals detained in Syria, mostly without charge or trial. Although some of them receive family visits, most are reportedly held in incommunicado detention. While many of those held are believed to have been taken during the civil war, either directly by Syrian troops or by various Lebanese militias which were then allied to Syria, reports of the arrest of Lebanese nationals and their detention in Syria continue to be received since the end of the war in 1990. In some cases arrests were carried out directly by Syrian military personnel stationed in Lebanon, whereas in other cases detainees were reportedly handed over by Lebanese security or intelligence forces to Syrian intelligence service in Lebanon and subsequently transferred to Syria. Examples of detention in Syria since the end of the civil war include:

⁴Article 12 specifies the judicial officers (*al-dabita al-'adliyya*) who assist prosecutors in their tasks as follows: Governors; District Commissioners; Police and Security Forces Directors; head of Judicial Police; Commissioners of Police, Public Security, and their assistants; Interrogation and Public Security Inspectors; Police Officers and duty officers in Police stations; village mayors; and captains of ships and aeroplanes.

- On 13 January 1992 Muhammad al-Dallati, Samar and Susan al-Dana, ‘Adnan Dib, Shawqi and Suhayl al-Durubi, and Jihad Farahat were reportedly arrested from Beirut, ‘Alia, and al- Bekaa areas in Lebanon and were taken to Syria. Neither the reasons for their detention, nor their whereabouts are known.

- Josef Cham’oun was arrested on 29 July 1993 from Beirut and was taken to Damascus. His fate and whereabouts have since been unknown.

- ‘Ubad Zwein, an insurance broker reportedly sympathetic to General Michel ‘Aoun, was arrested shortly after midnight on 26 October 1993 by armed men in civilian clothes. No arrest warrant was produced. He was reportedly taken to a Syrian Army intelligence base in al-Ramala al-Beida. He was later transferred to the ‘Anjar detention centre in the Bekaa valley, which is said to be under the command of Brigadier Ghazi Kan’an, the head of the Syrian Army Intelligence in Lebanon. He was released on 29 October 1993.

- Albert al-Shediac, also said to be sympathetic to General ‘Aoun, was reportedly arrested on 20 October 1993. He too was detained in Syrian detention centres in Lebanon, including ‘Anjar, before being transferred to al-Mezzeh prison in Damascus. During his detention he was reportedly beaten. He returned to Lebanon on 27 October 1993.

- Gabi Karam, who was arrested in Beirut in December 1993, was taken to Syria where he was detained for six weeks and allegedly tortured. He was returned to Lebanon and charged under Article 235 of the Penal Code which forbids contact with the enemy. His wife Halla al-Hajj was also detained in Syria for seven years and released in January 1997. Gabi Karam was arrested again in January 1997 and held in an unknown location. It was reported that he may have been taken to the Syrian detention centre at ‘Anjar in the Bekaa valley.

- In April and September 1994 13 members of the pro-Iraqi Arab Ba’th Socialist party were arrested and subsequently transferred to Syria where they were detained without charge or trial. Most of them were released in 1995 and 1996, but at least two are still in detention in Syria as of January 1997.

Amnesty International sought clarification from the Lebanese authorities about the procedures under which the Syrian military personnel stationed in Lebanon may arrest and detain people, but did not receive any response. Nor have the reasons behind the transfer of detainees to Syria ever been clarified. If these arrests and detentions took place with the knowledge and approval of the Lebanese Government then the latter is a party to these violations. If not, then the Government of Lebanon has a duty to investigate these cases and take action as necessary to safeguard the rights of its citizens.

Article 7: Prohibition of Torture and Ill-Treatment

Article 401 of the Lebanese Penal Code prohibits torture and provides for punitive measures against officials found responsible for torture or ill-treatment. Nonetheless, in practice arrests are at times carried out by forces with no legal authority, incommunicado detention has been used and detention in places not recognized by the law as legal centres of detention has been known; all these practices have placed detainees at risk of torture or ill-treatment. Indeed, reports of the torture and ill-treatment of political and ordinary criminal detainees have been received by Amnesty International on many occasions.

Death in Custody

Most of the LF members who were arrested in connection with the church bombing in February 1994 claimed that they were tortured in the Ministry of Defence. One of them, Fawzi al-Rasi, who was in his early thirties, died in custody on 22 April 1994. He was transferred from the Ministry of Defence building, where he was being interrogated to the hospital where he died in intensive care. Another detainee, Hanna 'Atiq, had also been transferred to intensive care during the same month after spending about two weeks under interrogation in the Ministry of Defence. Amnesty International expressed its fear that both men may have suffered torture, and called for a thorough, prompt, and impartial investigation into the death of Fawzi al-Rasi in accordance with the UN Principles on Extra-Legal, Summary and Arbitrary Executions. No report of any such investigation has been made public. In relation to the death of Fawzi al-Rasi, however, official sources said that an autopsy report showed that he had suffered a heart attack. Yet, the post-mortem report No. 3633/94 of 7 May 1994 stated that there are no indications of a heart attack: "mild atherome of the coronary arteries without evidence of ischaemic changes in the heart; although any ischaemia of the heart muscle appears macroscopically after 12 hours from the onset of infarction" The report also stated that the body of Fawzi al-Rasi bore "multiple skin contusions and bruises, contusion on the nipple of the right breast which may have been caused by a burn, and massive contusion of the muscles in the body".

- Hikmat Dib et al

During their interrogation at the Ministry of Defence, Hikmat Dib and Aleftari Atnasio were reportedly hung by their wrists by a pulley and beaten, including on their testicles. Two female detainees, Lina Ghurayeb and Muna Shkayban, were forced to strip naked in front of male interrogation officers and were told to part their legs. One of them said that she was repeatedly hit with a stick on her breasts. All three women said that they were subjected to humiliating and abusive language.

- While under interrogation by the Syrian Army Intelligence, 'Ubad Zwein was reportedly tortured. On 13 November 1993 he was examined by a forensic doctor, who found that Ubad Zwein was covered with severe bruises on his back, arms and legs. In the opinion of the doctor, these injuries had been sustained at least one week before the examination, and resulted from "collision with hard and blunt instruments".

Amnesty International raised these cases with the Lebanese authorities but no investigation is known to have been carried out.

Other torture cases

Georges Haddad was arrested on 23 December 1993 from his workplace in the Ministry of Housing in Beirut reportedly by armed men in civilian clothes who produced no arrest warrant. He was taken to the Ministry of Defence where he was held for 37 days mostly in solitary confinement before being transferred to Rumieh prison. He and 11 others were charged with contacting and collaborating with the "Israeli enemy". According to reports Georges Haddad suffered a broken right arm and severe bruising as a result of torture at the Ministry of Defence. He is reported to have said that during his detention he fainted several times as a result of this torture and that he received no medical treatment for his broken arm or any of his other injuries.

Antoinette Shahin was first arrested in connection with the church bombing on 23 March 1994, and then released by the investigating judge. She was arrested again on 5 May 1994 with no clear charges. Her brother Jean Shahin was one of the main suspects in the church bombing case and was tried and convicted *in absentia*. On 17 October 1995 Antoinette Shahin was officially charged in the assassination of Sam'an al-Khoury (which took place on 11 May 1992). Antoinette Shahin was reportedly tortured and ill-treated during her detention. A forensic medical report dated 17 June 1994 concluded that Antoinette Shahin “suffered bruising to the legs, swellings, lacerations on her arms and wrists”, and that “the swelling of the lower part of the right foot is possibly due to a very hot water burn or aggression or kicking with hard objects together with the exposure of the foot to very hot water”.

A torture testimony

A former detainee testified to Amnesty International how he was tortured while in detention at the Ministry of Defence in 1994, in connection with the church bombing case:

“The first thing I remember was being tied onto a chair with my feet caught between the seat and back and being hit on the soles of my feet with an electric wire until my feet were bleeding profusely.... During all the period from 28 March till 16 April 1994 I was kept standing, deprived of food, water and sleep for a span of three to four days a time. I was naked, blindfolded, my hands were tied behind my back whilst I was facing the wall with my legs widely spread apart. They used to walk on my toes, electrocute me at will and at times when I could take no more I used to collapse on the floor.”

This account is typical of other testimonies received by Amnesty International from other detainees, particularly those who were kept at the Ministry of Defence.

Amnesty International has repeatedly called on the Lebanese authorities to establish a prompt impartial and independent investigation into all reports and allegations of torture, as well as deaths in custody. The detailed methods and results of these inquests should be made public and anyone found guilty of abuses should be brought to justice. No response has been received in most of these cases.

Article 14: Right to Fair Trial

As far as Lebanese legislation is concerned, the Lebanese judicial system provides for trial of suspects within the requirements of fairness and due procedure of law. Article 20 of the Lebanese constitution states that:

“[t]he Judicial power shall be entrusted to the courts in their various instances and jurisdictions within the limits of a statute established by law and shall provide protection to judges and litigants. The law shall determine the judicial guarantees and limits. The judges are independent in the exercise of their functions and the decisions and judgements of all courts shall be rendered and executed in the name of the Lebanese people”.

During the civil war era and the breakdown of the state authority, the justice system all but collapsed. Substantial steps have been undertaken since the end of the war to restore the rule of law, and in particular the functioning of the judiciary. While Amnesty International acknowledges the positive steps undertaken in this regard, there are still some areas of serious concern with regard to the requirements of fair trial standards under the current functioning of the judiciary.

The Military Court

Many of the cases followed by Amnesty International were referred to the military court for trial. This included the above-mentioned case of **Hikmat Dib et al** of September 1994, who were arrested because they distributed leaflets critical of Lebanese authorities and the Syrian presence in Lebanon. They (all civilians) were charged under Article 125 of the Military Penal Code, which in some circumstances can carry the death penalty, and Articles 288 and 295 of the Penal Code. They were released on bail pending their trial before the military court. As pointed out above Amnesty International has expressed its concern at the arrest and detention of this group as possible prisoners of conscience. Another concern has been their prospective trial before the military court. Amnesty International has become increasingly worried about the excessive use of the military court in cases involving civilian defendants. Most recently the journalist **Pierre 'Attallah**, who was arrested during the wave of arrests in December 1996, is to appear before a military court charged under Article 317 of the Penal Code (which carries a penalty of up to three years' imprisonment) and Article 278 (which carries a penalty of up to life imprisonment).

Amnesty International is of the opinion that there are insufficient guarantees for a fair trial before the military court for the following reasons:

- The military court and the military court of appeal are under the jurisdiction of the Minister of Defence who exercises over them the same authority which the Minister of Justice exercises over ordinary courts.
- Despite being set up mainly to deal with cases related to the army and military personnel, the military courts have been granted a very wide jurisdiction over civilians. If any of the defendants or plaintiffs is from the military personnel the whole group will be tried before the military court. Secondly, if any act or offence has been interpreted as posing a "threat" to national security or "incitement of conflict", the case would be tried by the military court (as in the above-mentioned leaflets' cases). It was because of this wide, sometimes discretionary, jurisdiction that the military court presides over cases which could have otherwise been tried by civil or criminal courts. This is contrary to Lebanese legislation which does not give military personnel any legal authority over civilians.
- The degree of use of the military court is shown by its heavy case load (estimated at 22,000-25,000 annually). It was also estimated that during the period from June 1993 to December 1994, the military court system handled nearly 22,000 cases mostly involving civilians.
- The presence of civilian judges in the military courts is negligible: one member out of four in the permanent military court with the president of the court being a military officer. In the military court of cassation the president is a civilian judge with four military officers as members. Those who preside over the military courts are mostly regular army officers without adequate legal training. They are appointed by the Ministry of Defence to military courts.

- In theory, military courts must follow the CCP rules, but in practice they do not always do so, as in the cases of arrest without warrant, incommunicado detention, and denial of detainees' access to lawyers. In particular the illegal nature of arrests, detention and interrogation carried out by military police and intelligence, would most likely lead to other violations as in the numerous allegations of torture particularly at the hands of military personnel.
- Furthermore, the situation of the military courts has been worsened by the lack of any control on their jurisdiction by the civil judiciary. On 24 February 1994 the Court of Cassation decided (Decision No.5/94) that the civil justice system has no authority over military justice, and has no jurisdiction to review the proceedings of civilian judges appointed in the military court system as prosecutors or as investigating magistrates.

In view of these considerations, the rendering of a fair trial under military justice has become an area of grave concern for Amnesty International. This is particularly so since the military courts can pass death sentences. Another cause for concern is the numerous cases of civilians being tried before the military court, sometimes for the peaceful exercise of their right to freedom of expression (as in the leaflets' distribution cases).

The Justice Council

Established by Article 143 of the CCP, the Justice Council is the highest criminal court in Lebanon. It is composed of five senior judges from the Court of Cassation, with the head of the latter presiding over the Justice Council. The jurisdiction of the Justice Council covers, among other things, all crimes affecting state security, terrorism, and unlawful associations (Articles 270-336 of the Penal Code). In particular the Justice Council rules in cases involving assassination or assassinations of, attempts on senior politicians, diplomats and religious personalities and cases of political violence in general. In theory it would appear that the Justice Council, by its very composition, the seniority of its judges, and the public nature of its proceedings, provides for fair trial guarantees. However, there are some concerns as to whether the Justice Council proceedings are compatible with fair trial standards as laid down by Article 14 of the ICCPR. Some of these concerns arise from the very statutory composition of the Council, while others are related to its practical proceedings as manifested in some specific cases. Concerns of a statutory nature are:

- The Justice Council is a Special Court to which the cases are referred at the discretion of the Cabinet of Ministers and not as a result of normal judicial procedure.
- There is no right of Judicial review of the sentences passed by the Justice Council, including the death penalty.
- Given the other judicial and administrative responsibilities of the judges who compose the Justice Council panel, they can only devote a limited time to it. Yet, this factor combined with the wide jurisdiction of the Council would invariably result in delays and an increasing backlog of cases leading to prolonged pre-trial detention.

The Justice Council in Practice

During 1995 and 1996, the Justice Court tried a number of high profile cases, such as the church bombing case which involved Samir Gea'gea' and seven other members of the L F (five *in absentia*); the killing of Dani Cham'oun which involved, more or less, the same defendants; and

the killing of Sheikh Nizar al-Halabi which involved Ahmad ‘Abd al-Karim al-Sa’di, a Palestinian and 20 other defendants, mostly suspected members of *‘Usbat al-Ansar* Islamist group.

In all these cases the defendants were arrested, detained and interrogated mostly by military personnel or intelligence services. Some of them, as in the defendants in the Dani Cham’oun and church bombing cases, were kept in the Ministry of Defence throughout the periods of interrogation and trial although it was not a legal place of detention. In all these cases some of the defendants retracted their original statements claiming that they were extracted from them under torture. Defence lawyers argued that preliminary interrogations, which were carried out mostly by military personnel, should be declared null and void as they contradict the CCP requirements as laid down in Article 12 (see above). Lawyers also protested that they were not given sufficient and unsupervised access to their clients contrary to Article 73 of CCP.

The Justice Council was mostly dismissive towards these complaints:

- No measures were ordered to grant lawyers confidential access to their clients;
- No independent and impartial investigations appear to have been ordered in the numerous torture allegations. This a matter of particular importance to the administration of justice because some witnesses alleged that they were forced to testify against themselves or incriminate co-defendants under torture or ill-treatment;
- All protests relating to the illegality of the initial interrogations were overruled. Yet, it was during this period of initial interrogation, mostly at the hands of military personnel, that torture had allegedly taken place. Moreover, it is during this stage that the main body of evidence (mainly witnesses’ or accused confessions) and criminal charges are normally formulated. Subsequently, confessions and statements allegedly produced under duress were used and accepted as evidence in these cases.

Article 19: Freedom of Expression (*see also cases of possible prisoners of conscience, page 2*)

Article 21: Right of Peaceful Assembly

The Lebanese constitution guarantees freedom of expression in all forms. Article 13 states:

“Freedom of speech and writing, the freedom of the press, freedom of assembly and freedom of association shall be guaranteed within the limits laid down by the law”.

However, during the period since the end of the civil war the Government appears occasionally to have intervened in a manner that could only restrict freedoms of expression and assembly, contrary to the letter and spirit of the constitution, as well as Lebanon’s obligation under the respective articles of the ICCPR. Articles 23 of the Press Code (Legislative Decree No. 104/77) states that legal proceedings would be initiated by the state prosecutor if any publication published something regarded as defamatory against the head of the state, or the head of a foreign country. *Article 23 also provides for imprisonment of up to two years for those found guilty of defamation.* As we shall see below this Article has been increasingly abused in its implementation against opposition papers.

For example, in 1994 the Lebanese Government issued a law organizing audio-visual media (Law No. 382/94) by stating a number of conditions to be met before a broadcasting or television station could be given a licence. In September 1996, after a series of postponements, the

Lebanese Government restricted broadcasting to six television and 12 radio stations⁵. The other media companies were given until the end of November 1996 to submit new applications for licences or face closure. The new measures were met with opposition from various political and interest groups who repeatedly organized protest actions demanding the repeal of the new law because it restricts freedom of expression.

The press

In April and May 1993, in a clamp down on the press during which three newspapers were temporarily closed, four journalists and a cartoonist were charged before the Publications Court with various offences in connection with articles published in the newspapers.

In June 1995 three journalists were tried before the Publications Court in connection with articles published in their respective publications. Yusuf al-Hawaik , editor of the daily newspaper *al-Diyyar* was sentenced to three months imprisonment, while Hasan Sabra and Ghazi al-Maqhour, the publisher and managing editor of the weekly magazine *al-Shira'* respectively, were each sentenced to one month. All three sentences were later commuted to fines.

In March 1996 the state prosecutor filed six charges against the daily newspaper *al-Diyyar* in just 10 days, at the Publication Court, mostly in connection with articles criticizing the President of the Republic. The Publication Court fined the Newspaper.

In December 1996 the editor of *al-Kifah al-'Arabi* magazine was charged before the Publication Court for publishing an article criticizing King Fahad of Saudi Arabia.

Demonstrations

In July 1993 the Cabinet of Ministers ordered a total ban on demonstrations and the ban has remained in force ever since. On 13 September 1993 an apparently peaceful demonstration organized by *Hizbullah*, one of Lebanon's political parties, protesting the signing of the Declaration of Principles between Israel and the PLO was attacked by the security forces who opened fire on the demonstrators. Eight demonstrators were killed and about 30 were injured.

In July 1995 about 200 people were arrested in Beirut, Sidon, and Nabatiyah during a demonstration organized by the General Workers' Union (GWU) in protest against high prices and tax policies. Many were detained for days or weeks before being released without charge, but more than 100 were tried on charges including possession of weapons. Most were sentenced to one month's imprisonment, immediately commuted to a fine, while others were acquitted. While Amnesty International acknowledges the right of any government to enforce security in its

⁵According to press reports the licensed stations included Future Television which is owned by the prime minister Rafiq al-Hariri, MTV radio and television the owners of which include both the Foreign Minister Fares Bouez, and the Interior Minister Michel al-Mur, National Broadcasting Network (NBN) which is believed to be controlled by the Speaker of the parliament Nabih Barri, LBC which is controlled by Suleiman Franjeh, MP and son of former president Suleiman Franjeh, and Radio Free Lebanon owners of which also include some senior ministers and their aides.

territories and regulate the carrying of weapons, it was clear that the majority of those arrested during the GWU event were arrested because of their participation in a peaceful demonstration.

In October 1996, and following the decree reorganizing the audio-visual media, a number of organizations, including the GWU, formed the Defence of Freedoms Conference. The Conference organized a number of protest actions which were all met by a strong reaction from the authorities:

- On 3 October 1996 the security forces disbanded a peaceful gathering in front of the cabinet building organized by trade unions, press, student organizations and the follow-up committee of the audio-visual media employees. Another gathering which was organized on 9 October 1996, turned into a demonstration which was quickly disbanded by the security forces who had encircled the area. Three participants in the gathering were injured.

- On 29 November 1996 the Defence of Freedoms Conference called for a one day strike. A demonstration gathered on the strike day in Beirut but was violently disbanded by the security forces and the army who beat up the demonstrators with clubs and gun butts and threatened to shoot them. Dozens of demonstrators were injured and scores were arrested. Some journalists and photographers were ill-treated, and some had their cameras confiscated.