

## TABLE OF CONTENTS

<b>I. Introduction</b> .....	1
<b>II. Background</b> .....	3
<b>III. Coming to Terms with Past Violations</b> .....	5
“Disappearances” and abductions.....	5
Impunity for past violations - the amnesty law .....	7
<b>IV. Current Human Rights Situation</b> .....	8
<b>V. Patterns of Political Detention and Imprisonment</b> .....	10
Lebanese Law relating to Arrest and Detention.....	10
Arrest and Detention: the Practice .....	11
a) The Arrest and Detention of Prisoners of Conscience .....	11
b) Arbitrary Arrest and Detention .....	15
c) Arrests by Syrian military personnel in Lebanon .....	17
<b>VI. Torture and Ill-Treatment</b> .....	20
Deaths in Custody.....	20
Torture cases and testimonies .....	21
<b>VII. Violations of the Right to Fair Trial</b> .....	23
The Military Court.....	25
The Justice Council.....	28
<b>VIII. The Death Penalty</b> .....	34
<b>CONCLUSION</b> .....	36
<b>RECOMMENDATIONS</b> .....	36

# LEBANON

## HUMAN RIGHTS DEVELOPMENTS AND VIOLATIONS

### I. Introduction

Historically, Lebanon has had an impressive record of human rights awareness and commitment to their promotion and protection. The Constitution of the Lebanese Republic drawn up in 1943 laid down the freedoms of association, expression and assembly. The country witnessed the growth and consolidation of traditions of the rule of law and the independence of the judiciary and the necessary guarantees of human rights protection were enshrined in the Constitution and laws regulating criminal justice. In 1948 Lebanon was involved, through its representative, Charles Malek, in the drafting and adoption of the Universal Declaration of Human Rights. Lebanon acceded, in 1972, to the United Nations (UN) International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social, and Cultural Rights.

Yet, as a result of the tragic civil war era which ravaged Lebanon from 1975 to 1990, the state institutions, including the army, collapsed and with them the rule of law. Consequently, mass 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 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 been 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 creating, by 1993/94, an environment 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 individuals' rights within the law. However, the strip of land in south Lebanon, the so-called "security zone", has remained under the occupation of Israel and its proxy militia, the South Lebanon Army (SLA)<sup>1</sup>. Also, under the terms of

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<sup>1</sup> For Amnesty International's concerns on south Lebanon see: *Israel/South Lebanon: The*

the *Treaty of Brotherhood and Cooperation*, Syrian forces remained deployed throughout most of the country.

Compared with the civil war period the human rights situation has witnessed marked improvements. The end of the war signalled an end to mass human rights abuses such as deliberate and indiscriminate killings, abductions and “disappearances”, with the state once more in a position to uphold the rule of law, honour Lebanon’s obligations under international human rights law, and be held accountable for any violations committed by state officials in the exercise of their authority. In this regard Amnesty International acknowledges and welcomes the role played by human rights non-governmental organizations (NGOs), the Bar Association, and the Parliamentary Committee for Human Rights in defending human rights and working for their promotion and protection.

However, Amnesty International is concerned that individuals’ basic rights are often curbed in the name of “security” and the need for enforcing the state’s authority. In the experience of Amnesty International this emphasis on security and order in the absence of greater human rights safeguards may well open the door to human rights violations. Since the end of the civil war Lebanon has witnessed mass arbitrary political arrests and detention, torture and ill-treatment, violations of the right to fair trial, an expansion of the number of offences carrying the death penalty in 1994, and the carrying out of at least 12 executions since then.

This report focuses on these areas, and is the result of Amnesty International’s monitoring of human rights developments and violations since 1990. It is also the outcome of Amnesty International’s visits to Lebanon during 1996 and 1997, which included meetings with government officials and NGOs. Amnesty International has expressed its concerns to the Lebanese authorities in letters or appeals concerning specific cases, as well as in a memorandum submitted to the authorities in September 1996 highlighting some of Amnesty International’s concerns and proposing recommendations intended to improve human rights protection. A reply was received in April 1997 which provided information on specific cases but failed to address Amnesty International’s substantive concerns.

This report also incorporates concerns raised in a briefing regarding the human rights situation in Lebanon submitted to the 59th Session of the Human Rights

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*Khiyam Detainees: Torture and Ill-Treatment* (AI Index: MDE 15/08/92, May 1992); *Israel/South Lebanon: Unlawful killings during Operation “Grapes of Wrath”* (AI Index: MDE 15/42/96, July 1996); *Israel/South Lebanon: Israel’s Forgotten Hostages: Lebanese Detainees in Israel and Khiyam Detention Centre* (AI Index: MDE 15/18/97, July 1997).

Committee (the body of independent experts which monitors the implementation of the International Covenant on Civil and Political Rights by the State parties) which considered Lebanon's second report in April 1997. A copy of this briefing was sent to the Lebanese authorities and Lebanon's representative at the UN.

## **II. Background**

The Lebanese political system has its roots in an arrangement set down on the eve of its independence in 1943. In accordance with an unwritten "National Covenant", the President of the Republic is a Maronite Christian, the Prime Minister is a Sunni Muslim and the Speaker of Parliament is a Shi'a Muslim. Seats in parliament, cabinet appointments as well as high ranking public offices are allocated to secure representation of the main sectarian groups. Currently, the President of the Republic is Elias al-Hrawi, who was elected in 1989 and whose term of office was extended to three more years by the parliament in 1995. The Prime Minister is Rafiq al-Hariri, who was appointed to the post in 1992, and then re-appointed after the last parliamentary elections in 1996. The Speaker of the Parliament is Nabih Berri, the head of *Amal* movement, who became Speaker after the first post-war elections in 1992, and remained in post after the 1996 elections.

The civil war broke out in April 1975 involving various Lebanese militias and Palestinian groups. In June 1976 Syrian military troops went into Lebanon, and were deployed in various areas of the country, but particularly in the Beqaa' valley. From January 1977 onwards, the Syrian military presence in Lebanon continued under cover of the Arab Deterrent Force which was formed by the Arab League as a peace-keeping force. Different parts of the country, however, became effectively under the control of various warring militias.

Israel invaded south Lebanon first in 1978, and then in 1982. In the summer of 1982 Israeli forces besieged and eventually entered Beirut to force the Palestine Liberation Organization (PLO) out of Lebanon<sup>2</sup>. The PLO's fighters and political leadership left Lebanon in August 1982. Israel remained in control of most of south Lebanon from 1982 until January 1985 when it completed a phased withdrawal from that region. However, Israeli forces and its allied militia, the South Lebanon Army, SLA,

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<sup>2</sup> Since 1948 Lebanon was host to tens of thousands of Palestinian refugees driven from their homeland during the war which accompanied the creation of the State of Israel. The organized military presence of the Palestinians in Lebanon was further enhanced after the expulsion of the Palestinian guerrilla organizations from Jordan in September 1970, and the transfer of the PLO headquarters from Amman to Beirut.

remained in control of a self-declared “security zone” in south Lebanon. Syrian troops remained deployed in the Beqaa’ and some areas in northern Lebanon.

Meanwhile, and with the collapse of the state authority and the disintegration of the army, the country became largely divided into zones of influence among the various militia groups. Among these, three main militia forces: the *Lebanese Forces*, LF (a mainly Christian militia); *Amal*, the mainly Shi’a militia, and the *Progressive Socialist Party*, PSP (a mainly Druze militia), controlled most of the country (with the exception of the areas under Israeli and Syrian control).

In 1988, the Lebanese Parliament failed to elect a new President. The outgoing President, Amin al-Gemayel, appointed General Michel ‘Aoun, the commander of the Lebanese army, as head of an interim government. ‘Aoun’s government was not recognized by Syria, or even the Prime Minister at the time, Salim al-Huss. The two governments continued with conflicting claims over the country’s sovereignty.

In the autumn of 1989, the Ta’if Agreement, brokered by the Arab League, was signed and approved by the Lebanese parliament. The agreement endorsed the presence of Syria in Lebanon until security was restored in the country. General ‘Aoun rejected the Ta’if Agreement and remained defiant in the presidential palace in Ba’abda. In October 1990, a force composed mainly of Syrian battalions, and Lebanese army units opposed to General ‘Aoun stormed the presidential palace and ousted General ‘Aoun who took refuge in the French Embassy and subsequently left the country.

Implementation of the Ta’if Agreement put an end to the civil war and a government of national unity was formed in 1990/91 to implement a national security plan and enforce the authority of the state throughout the country.

In March 1991 the Lebanese Government ordered the dissolution of Lebanese and non-Lebanese militia. Most of the militia, except those involved in the conflict with Israel and its proxy militia the South Lebanon Army in south Lebanon, were disarmed in 1991.

In 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. Under the terms of this agreement Syrian forces (35,000 troops) remain deployed throughout the country.



### III. Coming to Terms with Past Violations

The mass human rights violations and abuses which dominated the civil war period were perpetrated by different parties involved in the Lebanese conflict. Some of these violations were limited in time and scope, such as arbitrary arrests and detention, while others had far-reaching implications which outlived the conflict and its immediate context, such as killings and “disappearances”. When the civil war ended in 1990, one of the main questions was how to deal with the human rights violations committed during the war, in particular how to deal with the problem of those who “disappeared” or went missing during the war. Below is an account of how these issues were addressed by the Lebanese authorities.

#### **“Disappearances” and abductions**

In March 1992 the Lebanese Government published the official statistics on people killed, wounded or missing between 1975 and 1990. There were 17,415 persons listed as missing, of whom 13,968 were classified as Lebanese nationals. All were said to have been abducted by various armed groups. Their fate remains unknown.

The practice of abducting members of other factions was reportedly started by the Phalange in 1975, and was later used by almost all the militias. Some of those abducted were subsequently killed, some were held captive in detention centres controlled by the militias in Lebanon and others were transferred to Syria and Israel. According to information assessed by Lebanese organizations concerned with the “disappearances” and missing persons during the war, most of the abductions committed by the different militias appear to have occurred during the period between 1975 and 1977 and the majority of victims remain unaccounted for.

Further abductions took place in 1978-1980 during the fighting involving various Lebanese and Palestinian groups, as well as Syrian forces.

In 1982/83 over 2000 more people are believed to have been abducted by militias during factional fighting or were taken prisoner by the official Lebanese Army after the Israeli invasion. Hundreds were taken prisoner by Israeli forces and held in south Lebanon and/or transferred to Israel.

In 1984 and 1985 about 1000 were believed to have been abducted following the ousting of the official Lebanese Army following the revolt led by *Amal* and other forces in February 1984.

In 1990 a non-governmental organization, the Committee of the Families of the Kidnapped, was formed in Lebanon to put pressure on the government to investigate the

fate of those who had gone missing following abduction. The Government had previously formed committees in 1984, 1985 and 1987 to investigate the cases of those who had gone missing during the civil war. However, while these committees were able to collect some information about the people reported missing following abduction, they were not able to take action to determine their fate or possible whereabouts.

In 1991 the Lebanese Government issued an amnesty law pardoning political crimes committed during the civil war (see page 7). The law covered abduction and hostage-taking, with some exceptions (offences which are normally punishable under Article 569 of the Lebanese Penal Code which prescribes life imprisonment for such offences). Today, leaders of some of the militias responsible for abductions during the civil war are currently serving as government ministers.

In 1995 the Lebanese Government issued a law establishing procedures to allow the families of missing people to have them legally declared dead. However, many families criticized the law because it failed to provide for any investigation into the fate of those who were abducted, and the possibility of holding those responsible to account.

The Lebanese Government informed the UN Working Group on Enforced or Involuntary Disappearances (WGEID) in 1995, that:

*"... from 1975 to 1990, Lebanon's situation was such that the State was not able to exercise full control over the national territory. In these circumstances, numerous transgressions and breaches of human rights occurred, not least the [enforced] disappearance of several persons on Lebanese territory. The successive investigations carried out by the competent authorities have, unfortunately, been fruitless.... It followed that, for the above-mentioned reasons, the enforced or involuntary disappearance of a number of persons on Lebanese soil could not be ascribed to the Lebanese State."*

In its 14th annual report dated January 1996, WGEID reminded the Lebanese Government *"of its continuing responsibility to undertake all requested investigations, until the fate of the missing persons is fully elucidated. In this respect, it has emphasized the applicability of article 7 of the Declaration [on the Protection of All Persons from Enforced Disappearance] to the particular circumstances which affected Lebanon at the time ...."* Article 7 of the Declaration states that:

*"No circumstances whatsoever, whether a threat of war, a state of war, internal political instability or any other public emergency, may be invoked to justify enforced disappearances."*

In July 1996 the Lebanese Government submitted its second report on its implementation of the International Covenant on Civil and Political Rights, ICCPR, to the Human Rights Committee. It stated that:

*"During the 16 years of war, tens of thousands of persons [involuntarily] disappeared after they were abducted by the Israeli army or by the militias because they were members of a hostile militia or simply because of their political beliefs or religious ties. The fate of many of these persons is still unknown."*

Amnesty International recognizes that the Lebanese Government was unable to impose its jurisdiction over the entire territory of Lebanon during the civil war. However, Amnesty International believes that the Lebanese Government still has a responsibility to set up an independent commission of inquiry to determine the fate of those who went missing following abduction by the warring factions. The commission should be empowered to consider appropriate compensation for victims and their families. This process is important not just for the sake of the victims and their relatives, but as an important signal that perpetrators of human rights abuses will be held to account for their actions in the future. Lessons learned from the past can and should inform future policy for the protection of human rights.

### ***Impunity for past violations - the amnesty law***

On 26 August 1991, the Lebanese Government issued the General Amnesty Law No. 84/91. The law, it was argued, aimed at turning a new page in the political history of Lebanon. In its first article, the law states that it grants a general amnesty for crimes committed before 28 March 1991. Its second article defines the nature of the crimes included in the full amnesty, such as "political crimes" (as specified in the Penal Code Articles 196-199); and other crimes whose punishments are laid out in the Penal Code (Article 569, paras 1 to 4), the Military Penal Code (Articles 107-171), the Law on Munitions and Explosives (Articles 72, 73, 75, 76, 77, 78) and the subsequent amendments to these laws. This means that a general amnesty was declared for abuses committed by all the militias and armed groups throughout all the years of the civil war.

The amnesty law, however, states that some crimes are to be excluded from the general amnesty. These are defined by Article 3 as crimes against external state security, crimes sent to courts before the law had come into force, fraud and bankruptcy, forgery of foreign or domestic currency and its sale, forgery of official documents, and crimes relating to the theft of antiquities. However, perhaps the most important exception is included in the third paragraph of Article 3, which states that the amnesty does not cover "crimes of the assassination or attempted assassination of religious figures, political leaders, and foreign or Arab diplomats".

Under the amnesty law the government was granted exceptional authority for the period of one year to issue a special amnesty with the same authority as general amnesty in accordance with a decree taken by a two-thirds' majority of the Council of Ministers, for anyone convicted or prosecuted for any crime excluded from the amnesty, provided that the government observed a series of rules and conditions.

The Human Rights Committee's concluding observations on the report presented by the Government of Lebanon in July 1996, and considered in April 1997, criticised the 1991 Lebanese amnesty law, stating that:

*“The Committee notes with concern the amnesty granted to civilian and military personnel for human rights violations they may have committed against civilians during the civil war. Such a sweeping amnesty may prevent the appropriate investigation and punishment of the perpetrators of past human rights violations, undermine efforts to establish respect for human rights, and constitute an impediment to efforts undertaken to consolidate democracy.”*

Amnesty International shares the concerns expressed by the Human Rights Committee and supports its recommendations to the Lebanese Government in this respect.

In general, Amnesty International believes that there should be thorough investigations into allegations of human rights violations. The object of such investigations should be to determine individual and collective responsibility and to provide a full account of truth to the victim, their relatives and society. Investigations must be undertaken by impartial institutions, and must be granted the necessary authority and resources for their task. The results of such investigations should be made public.

Amnesty International believes that a new future of true and lasting peace and human rights protection in Lebanon is only possible if the country comes to terms with its past through a process aimed at investigating and establishing the truth of the war period and its related abuses.

#### **IV. Current Human Rights Situation**

Unlike the civil war period, when the state authority and the rule of law all but collapsed, it is now possible for the Lebanese Government to promote, protect and ensure respect for human rights in accordance with the rights and guarantees laid down in Lebanese law and the Constitution. In addition, there are now enforceable mechanisms in place for Lebanon to comply with its obligations under international human rights treaties, such as

the ICCPR. The fact that Lebanon submitted its second periodic report to the 59th Session of the Human Rights Committee is a positive step towards fulfilment of the country's obligations under international law, and may be regarded as a reaffirmation by the Government of the need to implement the ICCPR in practice. While welcoming this important step, Amnesty International considers that further measures must be taken in order to bring law and practice into line with the ICCPR's provisions. Amnesty International has also called on Lebanon to consider ratifying other international human rights treaties such as the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the First and Second Optional Protocols to the ICCPR.

Respect for individuals' rights and freedoms is enshrined in the Lebanese Constitution of 1943 and was further affirmed in amendments introduced after the war. Paragraph (c) of the preamble added to the Lebanese Constitution on 21 September 1991 provides that:

*“Lebanon is a democratic parliamentary Republic, based on respect for public freedoms, foremost among which is freedom of opinion and belief, and on social justice and equality of rights and obligations among all citizens without distinction or preference”.*

Furthermore, Lebanese law provides for elaborate guarantees designed for the preservation of individuals' rights and their protection from any act of arbitrary deprivation of their freedoms.

While acknowledging the improvement in the overall human rights situation in Lebanon during the post-war era, Amnesty International is concerned that there are clear disparities between the rights enshrined in the Constitution and international human rights standards and the guarantees provided by Lebanese law on the one hand, and human rights practices on the other. Reports of human rights violations committed by the Lebanese political or judicial authorities have been of continuing concern to Amnesty International since the end of the civil war in 1990.

The specific concerns of Amnesty International with regard to the current human rights situation in Lebanon include:

- waves of arbitrary arrests and detention of suspected political opponents;
- allegations of torture and ill-treatment which have not been fully investigated by the authorities;

- trials of political detainees which fail to meet fair trial standards;
- the 1994 legislation expanding the scope of the death penalty, and the carrying out of 12 executions since then.

## V. Patterns of Political Detention and Imprisonment

### ***Lebanese Law relating to Arrest and Detention***

The International Covenant on Civil and Political Rights (ICCPR) and other international treaties to which Lebanon is a party prohibits arbitrary detention and requires the authorities to inform pre-trial detainees of the charges against them and their rights, and to grant such detainees prompt access to the outside world. Article 9 (1) of the ICCPR states:

*“Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as established by the law”.*

There is no administrative or preventive detention under Lebanese law. According to the Code of Criminal Procedures (CCP) no arrest or detention may be carried out by any force in the absence of an explicit order from a competent judicial authority. The CCP strictly limits the right to order the arrest of a person or persons to three judicial authorities: a) Public Prosecutors; b) Examining Magistrates; c) Courts of Law; (CCP Articles 10 and 11). In investigation and execution of arrest warrants, the judiciary is assisted by judicial officers (*al-dabita al-’adliyya*) within the police, the gendarmerie, and other officials prescribed by the law (CCP Article 12)<sup>3</sup>.

Article 105 of the CCP states that detainees should only be arrested by warrant which should be signed by a judge or examining magistrate. Article 106 stipulates that the arrest warrant should include the offence and whether it is a misdemeanour, or a felony, and note the relevant penalty prescribed by the law. Under Article 102 of the CCP, the examining magistrate or, if this is not possible, another judge, must question an

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<sup>3</sup> Article 12 of the CCP 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.

arrested person within 24 hours; otherwise the Prosecutor-General should order his release. Article 103 provides that, if a defendant arrested under an arrest warrant is not questioned within 24 hours or is not brought before the Prosecutor-General, his arrest is considered an arbitrary act and the official responsible will be prosecuted for deprivation of personal freedom under Article 368 of the Penal Code.

The detainee's right to confidential access to his/her lawyer is guaranteed under Article 73 of the CCP. Article 427 requires that detainees should be held only in recognized places of detention and Article 428 requires the immediate release of any detainee held without a proper arrest warrant.

### ***Arrest and Detention: the Practice***

Notwithstanding and contrary to the provisions of Lebanese constitution and Lebanon's obligations under international human rights standards, the Lebanese authorities continue to arbitrarily arrest people for expressing or disseminating critical opinions. Arrest and detention procedures have consistently violated the guarantees laid down in the CCP. Since the end of the civil war in 1990 until the present, hundreds of people have been arrested for political reasons or on security grounds, by the army, security forces, military police, and Syrian military personnel in Lebanon<sup>4</sup>. These arrests fall into three categories:

- the arrest and detention of prisoners of conscience<sup>5</sup> and possible prisoners of conscience;
- waves of arbitrary arrests and detentions following politically motivated acts of violence, which target large numbers of a particular group or groups;
- the arrest, interrogation and detention outside proper legal procedures of Lebanese citizens by Syrian military or intelligence personnel in Lebanon.

#### **a) The Arrest and Detention of Prisoners of Conscience**

Most of those under this category were arrested in connection with political opposition groups or activities. In many cases the arrests were connected to the distribution of

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<sup>4</sup> Abductions perpetrated by Israeli forces in the "security zone" in South Lebanon are documented in *Israel's Forgotten Hostages: Lebanese Detainees in Israel and Kham Detention Centre* (AI Index: MDE 15/18/97).

<sup>5</sup> The 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.

leaflets or the 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 referred for trial before the Military Court. The following are some examples of individuals arrested for the exercise of their rights to freedom of expression and/or association:

- Between 1991 and 1994 hundreds of people believed to be supporters of General Michel 'Aoun were arrested and detained for various periods. Most were apparently arrested following participation in opposition activities, such as demonstrations or the distribution of leaflets critical of the prevailing political situation, or were found in possession of publicity material supportive of General 'Aoun. Most were allegedly tortured or ill-treated. While most were released without charge, some were charged and eventually tried by the military court mostly in connection with distribution of leaflets. For instance, over 120 supporters of General Michel 'Aoun were arrested by the military police between July and November 1992 in connection with the printing and distribution of a leaflet which called for Lebanon to become "truly independent" and for an end to the occupation of Lebanon by foreign forces. The majority were held in the Ministry of Defence building in al-Yarzeh, Beirut<sup>6</sup> and released uncharged, but at least 22 of those detained were brought before the Military Court on charges of "forming a group aimed at harming the prestige of the state and its civilian and military institutions", "jeopardising Lebanon's links with foreign states"; and distributing leaflets. Those charged included Jose Afif, Emile al-Hachem, Nu'man Antoine, Mansour Sfeir, Emily Azzi and Dib Flouti, who spent up to two months in detention. Their trial was concluded, after several postponements, in March 1997 and each was sentenced to a period equivalent to that which they had spent in pre-trial detention.
- 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 Nasserist-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

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<sup>6</sup> The Ministry of Defence was not a recognized place of detention until January 1995 when the Government issued a Decree legalizing it as such.

arrested on different occasions throughout 1996. For example, six LPC members were arrested in February 1996 for displaying placards criticizing government policies and were charged with disrupting 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 1996.

A letter from Lebanon's Attorney General insisted that those arrested were not prisoners of conscience and asked rhetorically:

*"Can it be the free expression of ideas to distribute leaflets damaging the foreign relations of Lebanon, stoking sectarian tensions, calling citizens to sedition and violence, and damaging the morale of the army and security forces"*.

However, the leaflets of such prisoners of conscience in the possession of Amnesty International contained political criticisms without advocating violence.

Other examples of people arrested solely for the legitimate exercise of their right to freedom of expression included the arrest and detention of demonstrators, and the arrest of journalists, human rights activists and trade unionists.

- On 19 July 1995 the General Workers' Union (CGTL) organized a demonstration and called for a general strike in protest against high prices, taxes and other economic policies of the government. In response the government alerted the security forces to enforce a ban on demonstrations imposed by the government in 1993. The security forces reportedly beat some of the demonstrators and arrested about 200 participants including CGTL leaders, members, and journalists in Beirut, Sidon, and Nabatiyah. Many were detained for days before being released without charge, but 70 were tried in Beirut and Sidon on charges of violating Article 346 of the Penal Code, which prohibits gathering for the purposes of inciting riots and disorder. About half of those tried were acquitted while the rest were sentenced to one month's imprisonment, immediately commuted to a fine.
- In December 1996, after an armed attack on a Syrian minibus caused a wave of arrests<sup>7</sup>, Ghassan Bardawil was arrested on charges of distributing leaflets and damaging Lebanon's relations with a friendly country (Syria). He was released by the examining magistrate at the Military Court on 31 December 1996. Human rights activist Wa'il Kheir, the executive director of the Foundation for Human and Humanitarian Rights, and Pierre 'Attallah, a journalist at *al-Nahar* daily

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<sup>7</sup> See page 16.

paper, were arrested at the same time for one-week and two-week periods, respectively. Wa'il Kheir was released after being held without charge at the Ministry of Defence. Pierre 'Attallah was charged with inciting religious or ethnic conflict, and with making contact with Etienne Saqr, head of the *Guardians of the Cedar* (considered by the Lebanese authorities to be a collaborator with Israel), and was released on bail on 6 January 1997.

Pierre 'Attallah described his arrest and detention as follows:

*"It was 8:30pm on 23 December, my sister was decorating the Christmas tree and I was arranging my bookshelf while watching the T.V. Suddenly, there was a loud and persistent knocking at the door. My sister opened the window to see who was there. Three soldiers appeared accompanied by a civilian carrying a radio and a gun at his waist. "Is Pierre 'Attallah there?". My sister replied in the negative. The armed civilian then said that they had information confirming my presence in the house and they wanted to search. My sister then asked them whether they had a search or arrest warrant. They didn't, and threatened to shoot if we didn't open the door. Finally I appeared before them and asked them what they wanted and who they were. They said that they were [from] the Lebanese army, and that I should accompany them. As soon as I got in the military vehicle I was handcuffed and blindfolded. .. I spent seven days in the Ministry of Defence handcuffed and blindfolded and was forced to sleep on the floor".*

- On 30 May 1997 Elias Abu Rizq, the former president of the General Labour Confederation (CGTL), was arrested in Beirut, and charged with impersonating the head of the CGTL and usurping office under Articles 306 and 392 of the Penal Code which carry seven and three years' imprisonment, respectively. On 31 May 1997 Elias Abu Rizq was admitted to hospital suffering from high blood pressure. He remained in hospital under detention until his release on bail on 7 June 1997. The charges came in the aftermath of CGTL elections on 24 April which resulted in the emergence of two leaderships for the CGTL, one recognized by the Government, and the other led by Elias Abu Rizq and his supporters<sup>8</sup>. On 14 July 1997 the examining magistrate of Beirut charged Elias

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<sup>8</sup> Before these elections other incidents of arrest of trade union leaders were reported. On one occasion, on 13 April 1997, police reportedly surrounded the CGTL's headquarters in Sidon while new elections were being organized, arresting 26 trade unionist. Those detained, who included journalists, were released without charge the same evening. Police also reportedly surrounded the CGTL headquarters on the election day (24 April 1997) and arrested three union officers, apparently to prevent them from voting.

Abu Rizq additionally for “damaging the prestige of the state abroad and undermining its financial credibility” under Article 297 of the Penal Code which provides for up to six months’ imprisonment. The charges against Elias Abu Rizq have not been dropped.

Arrest and detention procedures in all these arrests were in flagrant violation of the articles of the CCP governing arrest and detention procedures. Many of the arrests were made by army personnel or military police, although according to Lebanese law military personnel have no jurisdiction over civilians. Indeed, military authorities may not prosecute or arrest any civilian or military person except under the delegation of authority granted to the army commander under Article 4 of the National Defence law. Such an authorization should be provided by a presidential decree charging the army with the task of keeping peace in a specific area and for a limited period of time. Even where such a decree has been issued, it should not infringe on the detainees’ right to be promptly brought before a competent judicial authority<sup>9</sup>.

### **b) Arbitrary Arrest and Detention**

Waves of mass arbitrary arrests and detentions have frequently followed politically motivated acts of violence. Amnesty International recognizes that the State has both a responsibility and a duty to bring to justice those responsible for acts of violence. However, the scope of arrests and the manner in which they were carried out has raised a number of concerns: in particular the Lebanese Government’s failure to follow due legal procedure as prescribed by Lebanese law and international standards and the arbitrary character of these arrests which did not give sufficient regard to the right to liberty and security of person as provided for by Article 9 of the ICCPR and Lebanon’s own legislation.

### ***The Church bombing***

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<sup>9</sup> In its consideration of Lebanon’s report the Human Rights Committee expressed its concern that “*the role and respective competencies of the Lebanese internal security forces and the military, with respect to arrest, detention and interrogation of individuals, have not been properly clarified by [the Lebanese] delegation*”.

On 27 February 1994 a bomb exploded in *Sayidat al-Najat* (Lady of Deliverance) church at Zuq Mikael in Junieh, killing 10 people and wounding others<sup>10</sup>. In March and April 1994 the government ordered the arrest of hundreds of Lebanese Forces (LF) members in connection with the bombing and other incidents, and dissolved the LF party, the main Christian militia during the civil war. It was reported that during the period between the church bombing incident and the banning of the LF (on 24 March 1994) about 120 people were arrested. Most were released without charge after a few days or weeks, but some were held for up to three months. The LF leader, Samir Gea'gea', and his deputy, Fu'ad Malek, were also detained. On 13 June 1994, 22 people were charged with the church bombing, of whom eight, including Samir Gea'gea' and Fu'ad Malek, were referred to trial (five *in absentia*) while charges against the rest were dropped by the examining magistrate (see pp 29 ff).

No arrest warrants, nor any of the guarantees prescribed by Lebanese law appear to have been provided in the arrest and detention of the LF members:

*“On 28 March 1994 we were besieged in Ghodras (the headquarters of the LF). Whilst I was leaving the area I was arrested by [some elements of] the Lebanese army... . They took hold of me and covered my head with my jacket. I was thrown in the jeep and taken to the Ministry of Defence. There was no arrest warrant. When we arrived at our destination a soldier took hold of me and ordered me to run rapidly with him even though I was blindfolded. I smashed my head into a wall and collapsed onto the ground in the midst of laughter from soldiers. Four to five hours later and while I was still standing blindfolded, I was summoned for interrogation. After the blindfold was finally removed I saw an officer who told me “You’re now in the Intelligence Section of the Ministry of Defence, we do not want anything from you but you need to answer every question we ask, it is the only way you will enter decent and respected and you’ll walk out clean and whole. Do not give us any reason to show you the other alternative... . It was one month before I was allowed to see a lawyer and instruct him to defend me. Even then they did not allow him to talk to me”.*

Another LF member who was arrested on 21 April 1994 stated that:

*“I was detained, tortured and released without any reason nor any legal justification or formality. Upon my release I was warned not to be involved in politics, social activities or even clubs nor to take part in any normal gathering where it involved friends or otherwise they would capture me again”.*

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<sup>10</sup> See also pp. 29 ff.

### ***The Minibus Bombing***

At least 76 people were arrested following an armed attack on a Syrian registered minibus on 18 December 1996 in the town of Tabarja north of Beirut<sup>11</sup>. The driver was killed and one passenger wounded. Detainees, who included lawyers and other professionals, 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 Lebanese Forces, led by Samir Gea'gea' and members of the National Liberal Party, headed by Dory Cham'oun.

By the end of December 1996 all but two of the detainees, Pierre 'Attallah and Ghassan Bardawil, were released without charge. None of the detainees was charged with the attack of Tabarja, the event which sparked off this wave of arrests.

Many aspects of these and similar waves of arrests contradict Lebanon's obligations under Article 9 of the ICCPR which prohibits arbitrary arrest or detention, as well as Lebanese legislation. The fact that most of those arrested in connection with the church bombing of 1994 and the minibus bombing of 1996 were eventually released without charge suggests that most of those detained were arrested solely because of their political affiliation, rather than because evidence pointed to their involvement in the attack. The majority of arrests were carried out without any arrest warrant by the military or military intelligence, detainees were kept in incommunicado detention without access to lawyers. Detainees in the church bombing case were held in the Ministry of Defence building at Yarzeh, which was not a recognized place of detention at that time. They were not brought promptly before a judge to challenge the lawfulness of their detention.

Most of those arrested in December 1996 and held in the Ministry of Defence were held 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.

Incommunicado detention without access to lawyers and family facilitates the use of torture as does the failure to observe the procedures laid down by the Lebanese CCP (see also Section VI).

### **c) Arrests by Syrian military personnel in Lebanon**

Cases under this category are of a complex nature, partly because such detentions are rarely acknowledged by Lebanese or Syrian authorities, and inquiries made by relatives of detainees to Lebanese authorities are reportedly met either with denial or indifference.

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<sup>11</sup> See also page 13.

Amnesty International is aware of at least 200 Lebanese nationals detained in Syria, mostly without charge or trial<sup>12</sup>. 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 services in Lebanon and subsequently transferred to Syria. Detainees frequently report suffering torture or ill-treatment while under interrogation by Syrian intelligence forces.

Examples of the detention of Lebanese nationals in Syria since the end of the civil war include:

- ‘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 Beqaa’ valley, which is said to be under the command of the Syrian Army Intelligence in Lebanon. He was released on 29 October 1993. 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 he 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”.
- Albert al-Shediac, also said to be sympathetic to General ‘Aoun, was reportedly arrested on 20 October 1993. He too was detained in detention centres run by the Syrian army in Lebanon, including ‘Anjar, before being transferred to al-Mezzeh prison in Damascus. During his detention he was reportedly beaten. He was returned to Lebanon on 27 October 1993 and was subsequently released.
- Gabi ‘Aql 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

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<sup>12</sup>Amnesty International submitted the names of a sample of Lebanese nationals reportedly detained in Syria in memoranda to the Syrian authorities in 1994, and again in 1997. No reply has been received with regard to these cases.

forbids “contact with the enemy” (i.e. Israel). His wife, Halla al-Hajj, was detained without trial in Syria for seven years until she was transferred from Syrian custody to Lebanon in December 1996. She was eventually released on 20 January 1997; however, her case is still pending before the Military Court in Lebanon. Gabi Karam was arrested again in January 1997 by the Lebanese Military Intelligence and briefly detained in the Lebanese Ministry of Defence headquarters at Yerzeh before being handed over to Syrian military personnel in Lebanon. He was then taken to the Fara’ Filastin, a detention centre in the Syria Military Intelligence Department in Damascus, where he was held incommunicado until March 1997. He was eventually released without charge on 3 April 1997. In March 1997 Magi ‘Aql Karam, Gabi Karam’s sister, was arrested and interrogated by Syrian intelligence forces in the area of Chtoura in the Beqaa’ Valley in Lebanon. Her family had no information as to her whereabouts during her incommunicado detention in Fara’ Filastin in Damascus. She was released on 27 March 1997.

- In April and September 1994, 13 members of the pro-Iraqi Arab Socialist Ba’th party were arrested and subsequently transferred to Syria where they were detained without charge or trial. Most of them were released in 1995, 1996 and 1997, but at least one, Hassan Gharib, is still in detention in Syria. In February 1996 Zafer al-Muqadam and Hani Chu’aib were arrested apparently on suspicion of membership of the unauthorized pro-Iraqi wing of the Ba’th party and transferred to Syria where they remain in detention.

Amnesty International has sought clarification from the Lebanese authorities about the procedures under which the Syrian military personnel stationed in Lebanon may arrest and detain people, but has received no response. Nor have the reasons behind the transfer of detainees to Syria ever been clarified. These arrests and detentions appear to have taken place with the acquiescence of the Lebanese Government. The Government of Lebanon has a duty to investigate each of these cases and take action as necessary to safeguard the rights of its citizens.

Article 2[1] of the ICCPR says: “Each state party .... undertakes to respect and *to ensure* the rights recognized in the present Covenant” (emphasis added). Furthermore, Article 2[1] of the UN Declaration on Disappearances, states that: “No state shall practice, *permit* or *tolerate* enforced disappearances” (emphasis added). The Lebanese Government has an obligation to ensure that the rights of all persons in Lebanon, as guaranteed by the Lebanese Constitution and international treaties, are protected.

Commenting on the Lebanon’s report examined in April 1997, the Human Rights Committee expressed its regret that the

*“delegation [of Lebanon] did not provide information on the role and extent of the exercise of power regarding the arrest, detention, interrogation, as well as the possible transfer to Syria of Lebanese citizens, by the Syrian security services which continue to operate within the State party’s territory with the consent of the Government.”*

## VI. Torture and Ill-Treatment

International human rights treaties, to which Lebanon is a state party, prohibit torture and ill-treatment. Article 7 of the ICCPR stipulates that:

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

The UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, passed without a vote by the United Nations General Assembly on 9 December 1988, states:

*“No person under any form of detention or imprisonment shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. No circumstances whatever may be invoked as a justification for torture or other cruel, inhuman or degrading treatment or punishment.”*

Article 401 of the Lebanese Penal Code forbids torture and provides for punitive measures against officials found responsible for torture or ill-treatment.

Nonetheless, the fact that arrests are sometimes carried out by forces with no legal authority and the routine use of incommunicado detention have placed detainees at risk of torture or ill-treatment. Reports of torture and ill-treatment received by Amnesty International relate to both political and criminal detainees. Torture may not be routine practice but some groups are more likely to face torture because they are usually more targeted by the authorities.

### **Deaths in Custody**

Most of the Lebanese Forces (LF) members who were arrested in connection with the church bombing in February 1994 claimed that they were tortured while held 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. Amnesty International expressed its fear that he, and another detainee, Hanna ‘Atiq, who was transferred to intensive care after two weeks’ interrogation in the Ministry of Defence, 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 ever been made public. Although official sources stated that an autopsy report showed that Fawzi al-Rasi had suffered a heart attack, the post-mortem report No. 3633/94 of 7 May 1994 stated that there were no indications of a heart attack:

*“...mild atheroma 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”.*

*In March 1994, Tareq al-Hassaniyah died in Beit al-Din Prison, reportedly from injuries he had sustained when his head was beaten against a wall. Up to seven members of the security forces were reportedly arrested in connection with his death. No information is available to Amnesty International regarding the result of the investigation into this case. Amnesty International does not know either whether the seven security officers were brought to trial or before the disciplinary tribunal.*

In February 1996 a suspected drug trafficker, Munir Mtanios, died in custody, reportedly as a result of torture. An investigation was reportedly launched into this case but the outcome was never made public. However, in a letter to Amnesty International in February 1997, the Attorney General said that Munir Mtanios “died because of a massive heart attack...There was no sign of violence or hitting on the body”.

In February and March 1996 the Parliamentary Human Rights Committee discussed reports of torture and urged the government to open an inquiry into torture allegations and police brutality. The Justice Minister promised to investigate these allegations.

### ***Torture cases and testimonies***

Scores of political detainees held in the Ministry of Defence have reported that they were tortured or ill-treated in detention.

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

A former detainee described 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 til 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.”*

*“All of a sudden after a silence, screaming commenced from the next room. I recognized the voice of my friend Fawzi al-Rasi [see ‘Deaths in Custody’ above]. I could hear Fawzi saying ‘I had nothing to do with the story of Dany Cham’oun, I know nothing about it’. I heard another voice ordering: ‘hang him on the Ballanco’ [see below]. I could hear from the screams that they were administering electric shocks to him. I heard another one say: ‘get the acid and dip his feet in little by little’. I could hear Fawzi screaming in terror, “No, No”; then suddenly his voice stopped. I heard lots of movements but I never heard his voice again. I didn’t know then what happened but I found out later after I had been released that he died on that day at their hands.”*

Another former detainee described the method of Ballanco as follows:

*“On many occasions we had our wrists handcuffed behind our back and wrapped with pieces of cloth to avoid slipping. The handcuffs are attached with a rope through a pulley on the ceiling and held at the other end by soldiers. The rope is pulled and all our body weight is carried by our shoulder joints backwards. The nerves crossing the shoulder are pulled and stretched causing serious damage and severe pain to the extent of collapse.”*

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

Majid (pseudonym) was arrested for political reasons in 1995. He was held in incommunicado detention for up to four months before his trial. Before his arrest, members of his family, including his parents, his wife, and members of his wife's family, as well as some of his friends, were harassed and detained to force him to hand himself over. While in incommunicado detention he was allegedly tortured to force him to confess guilt. He told Amnesty International:

*“For two months and 17 days I suffered various forms of [physical and psychological] torture. Throughout this period I was subjected to various methods of torture such as Ballanco, electric shocks, including on the testicles, and beating. At one point I was forced to stand still, blindfolded, for a period of five days without food, for 24 hours another time. When I collapsed they took me to hospital where I stayed five days. After that I was returned to the detention place [at the Ministry of Defence] and was left for another five days without torture or interrogation. Then, one day I was summoned to another room where they removed the blindfold and I saw my wife standing there blindfolded and handcuffed. They threatened to bring 20 soldiers to rape her in front of me if I refused to tell them what they wanted from me. I was horrified. I told them to give me a pen and paper and allow me to go to the bathroom to write whatever they wanted me to say. Once in the bathroom I tried to commit suicide by cutting my wrist. I was then taken to hospital..... Throughout all these four months I was detained and interrogated by the military intelligence without any official charge from the State Prosecutor.”*

In June 1996 a Criminal Court in Zahle concluded that security forces' officials had tortured Elya Harb, who was held on drugs charges, causing him permanent paralysis, and instructed the State Prosecutor to initiate judicial proceedings against these officials. Amnesty International has learned that the investigation carried out by the office of the State Prosecutor concluded that, contrary to the ruling of the Court in Zahle, there was no evidence of torture in the case of Elya Harb.

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 methods and results of these investigations should be made public and anyone responsible for such abuses should be brought to justice.

## VII. Violations of the Right to Fair Trial

The International Covenant on Civil and Political Rights spells out the minimum guarantees to be observed for ensuring a fair trial for any person(s) charged with a criminal offence. Article 14 of the ICCPR provides that “*everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law*”. The article further stipulates that:

*“Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law.”* (14[2])

Additionally, Article 14[3] provides that in the determination of any criminal charges against him, everyone shall be entitled to: “*Be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him*” (14[3,a]); “*Have adequate time and facilities for the preparation of his defence and to communicate with a counsel of his own choosing*” (14[3,b]); “*Be tried without delay*” (14[3,c]); and, “*Not to be compelled to testify against himself or to confess guilt*” (14[3,g]).

Furthermore, Article 14[5] states:

*“Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law.”*

As far as Lebanese legislation is concerned, the Lebanese judicial system provides for trial of suspects within the requirements of fairness and due process 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 ...”.*

In addition to guarantees provided by the law for the accused in the pre-trial detention, the CCP also provides for the right of the accused to have guaranteed access to a lawyer. Under CCP Article 70 the accused may have a lawyer of their choice present with them when they appear before the examining magistrate, who should inform the accused of their right not to answer any questions without the presence of their lawyer. If the accused are not able to appoint a lawyer of their choice, the examining magistrate should appoint one for them through the Bar Association.

During the civil war era, 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. In April 1997 the Human Rights Committee directed the attention of the Lebanese State to this matter and requested its urgent remedy:

*“The Committee expresses concern about the independence and impartiality of the State party’s judiciary, and notes that the delegation [of Lebanon] itself conceded that the procedures governing the appointment of judges and in particular members of the Conseil Supérieur de la Magistrature (Supreme Judicial Council) were far from satisfactory. The Committee is also concerned that the State party does not, in many instances, provide citizens with effective remedies and appeal procedures for their grievances. The Committee therefore recommends that the State party review, as a matter of urgency, the procedures governing the appointment of members of the judiciary, with a view to ensuring their full independence”.*<sup>13</sup>

### **The Military Court**

Many of the cases monitored by Amnesty International were referred to the Military Court for trial. 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. Most of the cases monitored of political detainees related to civilians.

The case of *Hikmat Dib et al* concerned five supporters of General ‘Aoun. Hikmat Dib, Huda Yamin, Lina Ghurayb, Muna Shkayban and Alefario Atansio had been arrested by the military police in September 1994 at a time when dozens of supporters of General ‘Aoun were being arrested in connection with leaflets critical of the Lebanese authorities and the Syrian presence in Lebanon. Most detainees were released without trial but the five above, all civilians, were brought before the Military Court charged with conspiracy aimed at undermining the authority of the army or the security of soldiers 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. After their arrest they had been taken to the Ministry of Defence where they were held in incommunicado detention for six days, during which time they were allegedly tortured. Hikmat Dib and

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<sup>13</sup> Although this report concentrates on trials which took place before the Military Court and the Justice Council, AI also expressed its concerns regarding fair trials before ordinary criminal courts in the document *Antoinette Chahin: Torture and Unfair trial* (AI Index: MDE 18/16/97).

Aleftario Atansio said that they were suspended by their wrists by a pulley and beaten, including on their testicles. Two female detainees, Lina Ghurayb and Muna Shkayban, stated that they 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. The women also said that they were subjected to humiliating and abusive language. All were released on bail. The trial of Hikmat Dib and his co-defendants was concluded in March 1997 when they were given a prison sentence equivalent to what each had spent during pre-trial detention. The Lebanese authorities denied to Amnesty International that the detainees had been tortured and stated that they were “undergoing public trial with proper legal representation”. However, no results of medical examinations were sent.

In December 1994, Hanan Yassin was arrested along with her husband, Ahmad Hallaq, and Wafiq Nasser, a Palestinian national, on suspicion of their participation in an explosion in a Beirut suburb, which the Lebanese security forces believed had been masterminded by Israeli intelligence forces. On the basis of her confession, Hanan Yassin was convicted in June 1995 of being involved in the killing of three people in the explosion and was sentenced to 15 years in prison with hard labour.

Hanan Yassin was tried in the Military Court even though she is a civilian. At the same time, her husband, Ahmad Hallaq, was tried *in absentia* and sentenced to death<sup>14</sup> along with another defendant. Three others were given prison terms ranging from three years to life. The court relied entirely on her statement, which was allegedly extracted under torture, and that of another defendant who also said that he had been tortured. Both had been interrogated at the Ministry of Defence building even though at the time it was not a legal place of detention.

Hanan Yassin’s lawyer argued in court that her confession was invalid as it had been made under extreme pressure. Hanan Yassin claimed that while being held incommunicado at the Ministry of Defence she had been tortured, gang raped, and had received threats affecting herself and her family. The judge did not deem it appropriate to order a medical examination of Hanan Yassin, despite the gravity of her allegations. In April 1997 Hanan Yassin’s appeal was heard by the Military Court of Appeal. As a result, her sentence was changed to 12 years’ imprisonment with hard labour. The allegation of torture was not investigated by the Court which also refused the defence

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<sup>14</sup> Ahmad Hallaq was apprehended in February 1996 by Lebanese security forces from Israel’s occupied zone and retried. He was sentenced to death in July 1996 and executed in September 1996.

lawyer's request to hear the doctor's testimony. Hanan Yassin was again convicted on the basis of her confession.

Pierre 'Attallah, a journalist who was arrested during the wave of arrests in December 1996, is to appear before a military court in October 1997 and was charged under Article 317 of the Penal Code (which carries a penalty of up to three years' imprisonment for inciting sectarian sedition) and under Article 278 (which carries a penalty of up to life imprisonment for contact with the enemy or their agents).

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

- 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 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 to conflict", the case has been placed under the jurisdiction of the Military Court (and non-violent leaflets indirectly referring to Syrian presence or questioning the independence of the Lebanese state have fallen under this heading). It is because of this wide jurisdiction that the Military Court presides over cases which should have otherwise been tried by civil or criminal courts. Such expansion of the jurisdiction of the Military Court is contrary to Lebanese legislation which does not give military personnel any legal authority over civilians (see page 15).
- 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. Yet, they are required to try complex political cases some of which involve capital offences. Significantly, the judgments made by the Military Court, unlike civilian courts, do not provide a full explanation of the grounds for their verdicts.
- The Military Court is characterized by its summary proceedings as demonstrated by the number of cases it rules on every day<sup>15</sup>. Although in law the right of

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<sup>15</sup>The case load of the Military Court is 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

defence is guaranteed to the accused, lawyers state that the *modus operandi* of the Military Court does not always allow them to discharge their tasks properly or allow time for them to make their case fully.

- Furthermore, proceedings before the military courts are not subject to independent judicial review. 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 theory, military courts are bound to apply the CCP, but in practice they frequently fail to do so. Violations in pre-trial procedure, such as arrests without warrant, incommunicado detention, and denial of detainees' access to lawyers have created an environment where other human rights violations may flourish. In particular the illegal nature of arrests, detention and interrogation carried out by military police and intelligence, has led to numerous allegations of torture, particularly at the hands of military personnel. Amnesty International is not aware of a single case where an investigation into a torture allegation was ordered by the Military Court. In view of these considerations, the use of military courts has become an area of grave concern for Amnesty International. This is particularly so since the military courts can and do pass death sentences, and the fact that proceedings have in the past led to the imprisonment of prisoners of conscience, sentenced for offences such as the distribution of critical leaflets.

In its specific recommendations to Lebanon in April 1997, the Human Rights Committee said:

*“The Committee expresses concern about the broad scope of the jurisdiction of military courts in Lebanon, especially its extension beyond disciplinary matters and its application to civilians. It is also concerned about the procedures followed by these military courts, as well [as] the lack of supervision over the military courts' procedures and verdicts by the ordinary courts. The State party should review the jurisdiction of the military courts and transfer the competence of military courts, in all trials concerning civilians and in all cases concerning the violation of human rights by members of the military, to the ordinary courts”.*

### **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

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nearly 22,000 cases mostly involving civilians.

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 assassinations of, or assassination 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 statutory composition of the Council, while others are related to its proceedings in practice 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 Council of Ministers and not as a result of normal judicial procedure.

Principle 5 of the UN Basic Principles on the Independence of the Judiciary states that:

*“Tribunals that do not use the duly established procedures of the legal process should not be created to displace the jurisdiction belonging to the ordinary courts or judicial tribunals”.*

- There is no right of judicial review of the sentences passed by the Justice Council, including the death penalty. This is in violation of international standards such as Article 14[5] of the ICCPR (see page 24), and the UN Safeguards guaranteeing protection of the rights of those facing the death penalty.

In its recommendations to the Lebanese Government the Human Rights Committee stated that:

*“The committee considers that some aspects of the State party’s legal system do not conform with the provisions of the Covenant. In this context, it points in particular to the fact that decisions passed by the Justice Council are not subject to appeal, which is contrary to article 14, paragraph 5, of the Covenant.”*

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. This factor, combined with the wide jurisdiction of the Council, has resulted in delays and an increasing backlog of cases. Detainees are held in pre-trial detention sometimes prolonged for years while hearings are held only once a week or at weekends.

### **The Justice Council in Practice**

Between 1994 to 1997 the Justice Council tried a number of high profile cases, such as the church bombing case which involved Samir Gea'gea' and seven other members of the LF (five *in absentia*); the killing of Dany Cham'oun which involved, more or less, the same defendants; the assassination attempt on the current Interior, former Defence, Minister Michel al-Murr in 1991, also involving Samir Gea'gea' and LF members; 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*, an Islamist group. The Justice Council is also scheduled to try the case of the assassination of former Prime Minister Rashid Karami in 1987, the accused being Samir Gea'gea' and LF members.

The following two related cases are examples of cases tried by the Justice Council.

### **Dany Cham'oun and Church Bombing Trials**

In June 1995, Samir Gea'gea' and others were convicted for the 1990 killing of Dany Cham'oun and his family. The Justice Council sentenced Samir Gea'gea' to death, but immediately commuted it to life imprisonment with hard labour. Camille Karam was sentenced to ten years in prison and Rafiq Sa'adeh was acquitted. Of ten others tried *in absentia*, eight were sentenced to prison terms between 10 years with hard labour and life imprisonment.

The concurrent trial of Samir Gea'gea' and other members of the LF for the 1994 church bombing of *Sayidat al-Najat* church was postponed in May 1995. Fu'ad Malek, Samir Gea'gea's deputy and main co-defendant in the case, was released on bail. The trial was resumed before the Justice Council in 1996 and concluded in July of the same year. Samir Gea'gea' was acquitted of the church bombing charge, but sentenced to 10 years' imprisonment for "maintaining a militia in the guise of a political party, and for dealing with military weapons and explosives". Fu'ad Malek, his deputy, was sentenced, on the same charges, to three years' imprisonment reduced immediately to one and a half years. Another co-defendant, Jirjis al-Khoury, was sentenced to life imprisonment with hard labour. Antonios Elias Elias, Ruchdi Tawfiq Ra'd, and Jean Yusuf Chahin, tried *in absentia*, were sentenced to death. Other co-defendants Paul and Rafiq al-Fahal were acquitted for lack of evidence.

While Amnesty International recognizes the responsibility of a government to bring to justice those responsible for violent crimes, the organization is of the opinion that both the Dany Cham'oun and the *Sayidat al-Najat* church trials have failed to meet some important aspects of fair trial requirements as prescribed by international standards, and Lebanese law.

### **Pre-trial Interrogations: Torture and Ill-Treatment**

In both cases the defendants were arrested, detained and interrogated mostly by military personnel or intelligence services. Defence lawyers argued that preliminary interrogations should be declared null and void as most were not carried out by authorized judicial officers, in contravention of CCP requirements as laid down in Article 12. (see p.10)

The Justice Council, however, overruled the defence request arguing firstly that it was outside the Justice Council's competence to rule on such a question as it was not an ordinary criminal court in the judicial hierarchy, and that irregularities with regard to preliminary interrogations were superseded by those carried out by the examining magistrate in charge of the case.

Regardless of who undertakes the preliminary interrogations, it constitutes a crucial step in that it is during this stage that the main body of evidence (mainly witnesses' or accused's confessions) is normally obtained and criminal charges are formulated. Furthermore, many defendants in these cases, and other detainees at the Ministry of Defence who were released without charge, have claimed that they were subjected to torture and ill-treatment. Subsequently, confessions and statements allegedly produced under torture and ill-treatment were used and accepted as evidence in these cases by the Justice Council without proper investigation into the torture allegations.

Under the CCP, the examining magistrate should ensure the rights of the accused and the fairness of interrogation and pre-trial detention procedures. It was not, however, clear whether that has always been the case in practice. An LF detainee who spent three months in detention at the Ministry of Defence and had appeared before the examining magistrate, related the following account:

*“They took me to a room and removed my blindfold. I saw in front of me a man dressed in civil[ian] clothes. I knew him straight away [as] the interrogation judge [examining magistrate]. I had seen him on T.V. before my arrest making declarations and accusing the Lebanese Forces of the church bombing. He said to me: ‘Stand up and put your hands behind your back, son’. I blessed myself and did as he asked. He looked at me and started shaking his head saying, ‘If you see me in civil [ian] clothes, don’t think you can take advantage’. Then he started the interrogation. I quickly realised that nothing had changed. From the room you could still hear the screaming and crying from the other rooms as before. It was so loud on one occasion that the judge had to ask the soldiers to go and calm it down so that we could hear each other ...”.*

The body of evidence collected by Amnesty International from accounts of former detainees at the Ministry of Defence suggests that torture normally accompanies the interrogation of detainees associated with certain political groups. As illustrated by the cases of those arrested in connection with the church bombing and the killing of Dany Cham'oun. Most accounts of torture detail methods of torture such as electric shocks, food and sleep deprivation, hanging on the *Ballanco*, in addition to threats and use of abusive language. The pattern of interrogation emerging from these accounts is that the

detainee is first threatened by torture, then torture gradually increases until the detainee signs whatever statement is wanted from him or her. One detainee stated:

*“After torture we were forced to sign these statements, blindfolded by a man called Mukhtar (the Mayor). The same man used to stand under the ‘Ballanco’ with a piece of paper; he would say: ‘Sign this paper and go home, or stay on the ‘Ballanco’. [On other occasions] “ they would ask the new prisoner, ‘do you know xx?’; he would reply: ‘yes he’s an officer in Ghodras” [headquarters of the LF]. They would say ‘look what happened to him ! If you don’t tell us what we want (meaning their prepared statement) the same thing will happen to you”.*

The fact that there were serious violations and irregularities committed against detainees in the Ministry of Defence must cast doubt on the validity of the preliminary interrogations, and their resulting “confessions”, which invariably constituted the main body of evidence presented by the prosecution. The use of such confessions contravenes Article 12 of the Declaration on the Protection of all Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which states:

*“Any statement which is established to have been made as a result of torture or other cruel, inhuman or degrading treatment or punishment may not be invoked as evidence against the person concerned or against any other person in any proceedings”.*

### **Inadequacy of investigations into torture**

In February 1995, after the start of the church bombing trial, one of the main defendants in the church bombing case, Jirjis Khoury, retracted his statements given to the Prosecutor and examining magistrate saying that they were made under torture. Jirjis al-Khoury maintained his retraction when the trial resumed its proceedings the following year. The court rejected the torture claim on the basis of a medical report by the prison doctor dated 19 March 1994, who testified before the court stating that he had examined the defendant during the interrogation period and that he did not find “*any traces of beating or torture*”.

Amnesty International considers that the investigation into this allegation of torture was far from satisfactory. For an investigation of torture claim to be fair and adequate, a number of principles should be observed.

Whenever there is suspicion that torture or ill-treatment has taken place, the detainee should be accorded prompt access to a medical doctor who is independent of the authorities responsible for the custody, interrogation and prosecution of the subject. The examination should include obtaining a full verbal medical history from the subject and the performance of a full clinical examination, including evaluation of the subject’s mental state. A second medical examination should be arranged if requested by a victim who has alleged torture or ill-treatment and or by his/her representative who should both have the right to nominate the physician who will undertake the second examination.

### **Access to Lawyers**

Defence lawyers in both cases protested that they did not have sufficient and unsupervised access to their clients. They also stated that they were allowed to see their clients only for short periods of time and at intervals which would not allow them to perform their defence tasks properly, that the defendants did not have free access to their legal papers and that the defence lawyers were not allowed to communicate with them during the trial proceedings. One (non-Lebanese) lawyer who briefly joined the defence team of Samir Gea'gea' related how he and other defence lawyers were conducting their meetings with their client:

*“The room would be some 6 to 8 feet in length. The prisoner sits behind a table that ensures he cannot speak closely, quietly, and confidentially to his counsel as he is at the end of a long table and he can only be seen through a slit in the wall at such a distance that you have to shout in order to communicate. Once again no papers are afforded to him and nothing can be shown to him and you are only allowed to talk to him for a relatively short period of time. A guard stands close by able to hear the conversation although when I was there he stood back which is not what normally occurs”.*

Principle 8 of the Basic Principles on the Role of Lawyers states:

*“All arrested, detained or imprisoned persons shall be provided with adequate opportunities, time and facilities to be visited by and to communicate and consult with a lawyer, without delay, interception or censorship and in full confidentiality. Such consultations may be within sight, but not within hearing, of law enforcement officials”.*

Jirjis al-Khoury, who was arrested on 9 March 1994, said that he was not able to appoint a lawyer to defend him until 17 May 1994. During this time, and contrary to CCP Articles 71 and 73 he was interrogated several times, including by the examining magistrate, in the absence of his lawyer. Furthermore, he was taken to reconstruct the crime, again in the company of the examining magistrate without the presence of his lawyer. His lawyer, on the other hand, told the court that from the time that he took over the case of this defendant until April 1995, he had been allowed to see his client only three times.

Additionally, Jirjis al-Khoury told the Court that he was not aware of the charges against him until the indictments were issued by the examining magistrate. That is to say he had been interrogated as, and led to believe that he was, a witness, while he had already been considered a suspect by the Prosecution. Such a procedure clearly contravenes the Lebanese law, as well as ICCPR Article 14, 3(a) which provides that everyone has the right

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*“to be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him”.*

### **Nature of Evidence**

The main evidence in both cases appeared to have been confessions made by some of the defendants. As pointed out above, the main defendant in the church bombing case, Jirjis al-Khoury, retracted his confession before the Justice Council alleging that it had been extracted under torture and duress. The Court disregarded this retraction on the grounds that there was no evidence of torture. On the other hand the prosecution did not submit any substantive evidence to corroborate the original confession made by Jirjis al-Khoury.

Furthermore, the defence lawyers argued that the three defendants tried in absentia, Antonios Elias Elias (also known as Tony Obeid), Jean Chahin, and Ruchdi Ra'd, who were eventually convicted, were actually outside the country when the crime took place. They produced notarized testimonies and affidavits to indicate the whereabouts of these defendants during the period in question. It appears that all three sought and eventually gained political asylum in Canada and Australia. The Court, however, rejected the defence plea that these three defendants were outside the country at the time of the crime on the grounds that the defendants could have used forged documents. On the other hand, the prosecution did not present any substantial evidence to the effect that the said three defendants were actually in the country on the particular dates when meetings for the planning and execution of the crime took place.

## **VIII. The Death Penalty**

On 11 March 1994 the Lebanese Parliament voted to make the death penalty mandatory for first-degree murder and to amend the Penal Code to allow the application of the death penalty in cases of political murder. This law was signed by President Elias al-Hrawi on 22 March 1994. The introduction of mandatory death penalty for premeditated murder, and expansion of the scope of capital punishment followed the church bombing of February 1994 (see above).

On 28 March 1994 Amnesty International wrote to the Lebanese Government expressing its deep regret at the expansion of the death penalty in Lebanon and urged the authorities to review this law and other legislation providing for the death penalty. It also urged the Lebanese Government to consider ratifying the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty. Amnesty International drew attention to Lebanon's past record on the use of the death penalty, with three executions reported to have been carried out in the past 35 years, and with no judicially ordered execution having taken place since 1983.

According to reports monitored by Amnesty International, since the re-institution of the death penalty in March 1994, 27 death sentences were passed by the Lebanese courts. In at least one case the person sentenced to death was charged with collaboration

with Israel while in most other cases the persons were sentenced for murder, including political killings. Twelve executions were carried out, the latter including five since the beginning of 1997. This trend constitutes a serious concern to Amnesty International. Most death sentences have been passed by criminal courts, where there is a right of review by the Court of Cassation (which may examine the procedure, but not the substance of the case). Amnesty International does not believe that review before the Court of Cassation offers the full right of appeal required by international standards. Other death sentences were passed by the Justice Council, which provides for no right of appeal.

Amnesty International recognizes the responsibility of governments to bring the perpetrators of crimes to justice. However, the organization opposes the death penalty in all cases as a violation of the fundamental right to life and the right not to be subjected to cruel, inhuman or degrading treatment or punishment as recognized in the Universal Declaration of Human Rights and the ICCPR. There is no reliable evidence that the death penalty helps to prevent other serious harm, for example by deterring crimes. The risk of error is inescapable, yet the penalty is irrevocable. No measure that may be devised can ever make it less inhumane.

The United Nations (UN) General Assembly has stated that "the main objective to be pursued in the field of capital punishment is that of progressively restricting the number of offences for which the death penalty may be imposed with a view to the desirability of abolishing this punishment". Expansion of the death penalty is inconsistent with Lebanon's obligations under the ICCPR and is contrary to world trends towards its abolition. The Human Rights Committee stated in General Comment 6 that State parties are obliged to limit the use of the death penalty and has recommended that they "*consider reviewing their criminal laws in that light*". The Committee has explained that Article 6 also refers generally to abolition in terms which strongly suggest (paragraphs 2(2) and (6)) that abolition is desirable. It has concluded that "*all measures of abolition [of the death penalty] should be considered as progress in the enjoyment of the right to life*".

On 3 April 1997 the 53rd session of the UN Commission on Human Rights adopted a resolution (Resolution 12/97) which states that:

“Convinced that abolition of the death penalty contributes to the enhancement of human dignity and to progressive development of human rights:

1. Calls upon all States parties to the International Covenant on Civil and Political Rights that have not yet done so to consider acceding to or ratifying the second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty;

2. Urges all States that still maintain the death penalty to comply fully with their obligations under the International Covenant on Civil and Political Rights [and] to ensure the right to seek pardon or commutation of sentence;

3. Calls upon all States that still maintain the death penalty to observe the safeguards guaranteeing protection of the rights of those facing the death penalty, set out in the annex to Economic and Social Council resolution 1984/50 of 25 May 1984;

4. Calls upon all States that have not yet abolished the death penalty progressively to restrict the number of offences for which the death penalty may be imposed;

5. Also calls upon all States that have not yet abolished the death penalty to consider suspending executions, with a view to completely abolishing the death penalty”.

In its recommendations to Lebanon, the Human Rights Committee expressed its concern for “*the Lebanese Government’s extension of the number of crimes carrying the death penalty*”. It urged Lebanon “*to review its policy vis-a-vis capital punishment with a view, firstly, to bring about its limitation, and ultimately its abolition*”.

## Conclusion

A significant improvement in the overall human rights situation has evolved in Lebanon as a result of the settlement of the civil war in 1990. Consequently, the human rights abuses, such as deliberate and indiscriminate killings of non-combatants, abductions, hostage taking, and “disappearances” which characterized the war period also ceased. Furthermore, restoration of the state authority in most of the country also meant a recovery of the rule of law, authorities’ accountability, and the creation of a general atmosphere conducive for human rights promotion and protection.

While acknowledging these positive developments, Amnesty International is, however, concerned that human rights violations, in the form of arbitrary political arrests and detention, reports of torture and ill-treatment, unfair trials, and the rise in death sentences and executions, have been committed by political and military authorities during the same period. These violations were often committed on grounds of enforcing state authority consolidation of internal security. It is the opinion of Amnesty International that real security and stability can only be maintained if individuals’ human rights are protected and enjoyed.

The occurrence of these violations also points to the disparity which seems to exist between the inherent provisions for human rights protection in Lebanese law and the actual practice. The violations also disregard the guarantees laid down in the international human rights treaties which Lebanon has solemnly agreed to uphold.

## Recommendations

### 1. *The Legacy of the Past*

Amnesty International calls on the Lebanese Government to establish a “commission of inquiry” to investigate the cases of those who “disappeared”, or went missing following abduction by militia groups during the civil war. The commission of inquiry should be based on principles of impartiality, competence, and independence of its members, whose personal safety should be ensured. They should be enabled to obtain all necessary information, have authority to listen to all concerned people and have access to all sources of information. It should be empowered to ensure protection of witnesses, and should conduct its hearings in an environment of publicity and openness. The commission of inquiry’s mandate should be publicly announced at the time of its creation, and should include:

- investigation of past events and reasons for their occurrence;
- consideration for the appropriateness of compensation to victims;
- consideration of future changes needed in law (with emphasis on the amnesty law of 1991), administrative procedures and practice; training and accountability of personnel.

Finally the commission should issue a public report as soon as possible after the conclusion of its work, containing its methodology, findings, conclusions and recommendations in full.

## ***2. Preventing Arbitrary Detention***

The Government should ensure that provisions in the Lebanese Constitution which ensure freedom of expression and association are also guaranteed in practice. In particular, the Government should review the provisions under which demonstrators and political activists involved in disseminating material have been detained. Any security-related restriction on such activity should be justifiable under international standards, and should never allow for the detention and imprisonment of prisoners of conscience.

Respective Lebanese authorities should strictly apply the provisions and guarantees provided for in the CCP with regard to individuals facing arrest, detention or trial for political activities or offences. The role of the military personnel in criminal justice should be clarified and reviewed in accordance with Lebanese law and relevant international standards.

The legal grounds for arrest, interrogation, detention and transfer to Syria by Syrian military personnel in Lebanon should be clarified, and any person facing such measures must be entitled to guarantees provided for by the Lebanese criminal justice system, and relevant international standards. The family of any person detained by Syrian military personnel in Lebanon, or transferred to Syria, is entitled to know their whereabouts, to be informed about any charges against them, be reassured about their safety and well-being and be allowed access to the detainees.

## ***3. Steps to end Torture and Ill-Treatment***

With regard to allegations of torture and ill-treatment, the Government should undertake the following steps:

- proper independent judicial investigation of torture allegations;
- no evidence obtained under torture should be admitted in judicial proceedings;
- investigations of any death in custody should follow the UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions;

Preventive measures should also be taken to reduce the possibilities of torture, such as:

- an end to incommunicado detention;
- prompt access to lawyers, doctors and family members;
- right of detainees to lodge complaints about their treatment;
- appearance before a judge within 24 hours, according to the CCP.

#### **4. *Ensuring Fair Trials for Political Prisoners***

Urgent steps should be undertaken to ensure fair trials for political detainees and suspects in accordance with international standards such as the ICCPR, and the Basic Principles on the Independence of the Judiciary.

There is a presumption in international law that civilians should not be tried by military courts and Amnesty International therefore urges the Lebanese Government to halt all trial of civilians before the Military Court and refer the cases to the respective civilian court.

There is also a presumption in international law that special courts should not be created without legitimate judicial reasons. Unless the Lebanese Government can show that such reasons exist with regard to the Justice Council, Amnesty International recommends that trials of persons charged with political offences should be held before the ordinary criminal courts.

#### **5. *End the Use of the Death Penalty with a View to its Abolition***

Amnesty International urges the Lebanese Government to revoke the 1994 death penalty legislation with a view to the total abolition of the death penalty.

In the meantime the government should ensure that the rights of those sentenced to death are protected in accordance with the UN Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty. In particular all defendants sentenced to death must have a right of appeal to a higher tribunal. The government should declare a moratorium on executions and should commute the sentences of all those currently on death row, while it considers abolition of this penalty.

