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LEBANON: SYRIAN REFUGEE APPARENTLY TORTURED TO DEATH

Lebanese authorities should transfer the prosecution of security force members charged in the torture and murder of a Syrian refugee from inherently unfair military courts to the ordinary criminal courts, Human Rights Watch, Legal Agenda, Amnesty International, and MENA Rights Group said today.

Members of State Security, one of Lebanon's intelligence agencies, allegedly tortured Bashar Abed Al Saud, 30, after his arrest on August 30, 2022. He died from his injuries on August 31. On September 2, after news of Al Saud's death and photographs of his bruised body circulated in the media, the Military Prosecutor Judge Fadi Akiki, arrested and charged a State Security officer and three other members with torture and referred them to the Military Investigative Judge Najat Abu Shaqra. They are being investigated in the military justice system, which lacks independence and includes judges appointed by the defense minister.

"Al Saud's death during his detention at State Security requires a fair and comprehensive investigation in front of the ordinary judiciary, as the military justice system cannot bring justice for his family," said Ghida Frangieh, head of litigation at Legal Agenda.

On September 8, Al Saud's family submitted a torture complaint to the Cassation Public Prosecution through their lawyer Mohammad Sablough. The prosecutor, Judge Ghassan Oueidat, referred the case as a violation of Lebanon's anti-torture law to the military prosecutor. On September 15, Al Saud's relatives resubmitted a request to refer the file to the ordinary criminal courts, but Judge Oueidat also referred that request to the military prosecutor.

Referring the investigation to the military court is contrary to international law, as interpreted by treaty bodies, and article 15 of Lebanon's Code of Criminal Procedure, which states that crimes that members of the judicial police commit while carrying out their duties as assistants to the public prosecution fall solely under the jurisdiction of the ordinary judiciary.

Further, Lebanon's 2017 anti-torture law also states in its preamble that the regular judiciary alone "has the power to prosecute, investigate, and try" crimes of torture, "excluding any other exceptional criminal courts." When debating the anti-torture bill in September 2017, Parliament members agreed that there was no need to include this explicitly in the proposed law in light of article 15 of the criminal procedure code.

The jurisdiction of ordinary criminal courts over torture complaints is fundamental to ensuring that victims of crimes under international law, like torture, or human rights violations have the right to an effective remedy, the organizations said. The structure of the military judicial system in Lebanon and its legal procedures mean that security force personnel will not be prosecuted before a competent, independent, and impartial court.

Most military court judges are military and security services officers, appointed by the defense minister, and are not required to have a law degree or legal training. Human rights organizations and the media cannot monitor military trials without prior permission from the presiding judge. In addition, the Military Justice Law does not allow victims to participate in the trial, and at most considers them potential witnesses.

A member of Al Saud's family told the organizations that at around 8 p.m. on August 30, about six or seven security agents wearing military clothing arrested Al Saud at his home in the Shatila camp in Beirut, without identifying their agency or saying why he was being arrested. They did not present a judicial arrest order, the relative said.

Al Saud's relative and Sablough, his lawyer, said that Al Saud was not allowed to call his family or have a lawyer present during his interrogation, in violation of his due process rights under international law and Lebanon's Code of Criminal Procedure. His relative said that they did not know Al Saud's whereabouts until they received a call on September 3 telling them to collect his body from the Tebneen Public Hospital in south Lebanon.

The authorities had transferred Al Saud to the Nabatieh hospital in south Lebanon at around 7 a.m. on August 31, where

a forensic report that the organizations reviewed found that Al Saud died as a result of “the stoppage of the central nervous system due intense pain and suffering from violence and severe beatings, which ultimately led to the stopping of his heart and blood circulation.” The forensic report also stated that the doctor found:

blueness and redness in the head near the left ear, a bleeding wound on the right side of the lower lip, remnants of blood in the nostrils, signs of several burns all over the body, many signs indicating the use of a whip or an electric wire in the upper extremities, back, chest, abdomen and lower extremities up to the feet, and swelling in the testicles.

Photographs and a video of Al Saud’s body, which the organizations reviewed, corroborate the forensic report, and show large parts of his body covered in bruises, whip marks, cuts, and burns.

On September 2, a Lebanese newspaper *Al Akhbar* publicized the news of Al Saud’s alleged torture and death, prompting State Security to issue a statement claiming that its forces had arrested Al Saud after members of an Islamic State (ISIS) cell identified him as an accomplice, and that Al Saud had confessed to fighting with ISIS. The statement conceded that Al Saud had died, but it did not address the torture allegations and stated that the agency had referred the case to the “competent judiciary.”

On September 5, State Security released another statement accusing some media outlets of “slandering” the agency and stating that the file had been transferred to the military judiciary and that maximum penalties would be imposed against anyone found to have violated orders.

Human Rights Watch wrote to State Security and the Cassation Public Prosecutor, copying the military prosecutor, on September 6, asking for clarification around the scope of State Security’s mandate in policing suspected terrorism cases and its detention authority; the circumstances and legality of Al Saud’s arrest and detention; and any action that State Security or the prosecution had taken to investigate, suspend, or discipline any State Security member involved in the arrest, interrogation, or alleged torture and ill-treatment of Al Saud. As of September 26, Human Rights Watch has not received a response.

MENA Rights Group submitted Al Saud’s case to several United Nations human rights experts, including the Special Rapporteur on Torture, the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, and the Special Rapporteur on the Independence of Judges and Lawyers.

The Cassation Public Prosecution has previously referred torture complaints to the military judiciary in apparent violation of the law. This includes a torture complaint that the actor Ziad Itani submitted in October 2018 against members of State Security, as well as torture complaints from 17 protesters against the security forces in December 2019 in the context of Lebanon’s nationwide protests. The military prosecutor and cassation public prosecutor agreed in April 2019 to transfer Itani’s complaint to the ordinary courts. No one has been charged in these cases.

“Impunity for torture remains commonplace, with dozens of complaints regarding torture and other ill-treatment filed under the 2017 Anti-Torture Law rarely reaching court and most closed without an effective investigation,” said Diana Semaan, Amnesty International’s Acting Deputy Director for the Middle East and North Africa. “It is about time that the Lebanese authorities begin to implement the anti-torture law, investigate all allegations of torture and other ill-treatment, and hold the perpetrators accountable.”

The Lebanese authorities should seriously investigate complaints related to crimes of torture and respect the jurisdiction of regular courts over these crimes, the organizations said. The public prosecutor at the Court of Cassation, the government commissioner at the military court, and the military investigative judge should immediately transfer the file about the investigation into Al Saud’s death to the competent and ordinary criminal judge, the investigative judge in the south, to ensure compliance with Lebanese law and the right of his relatives to an effective remedy.

Further, Lebanon should allocate funds to allow the five members of the National Preventative Mechanism against Torture, who were appointed in July 2019, to fulfill their mandate.

“The shocking images of Al Saud’s bruised and gashed body should send a strong message to the Lebanese authorities that they need to be doing much more to combat torture in detention,” said Aya Majzoub, Lebanon researcher at Human

Rights Watch. “Those responsible for Al Saud’s torture and death should be brought to justice in fair and transparent judicial proceedings.”

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