



Questionnaire on the use of legislation, including criminal legislation, to regulate the activities and work of human rights defenders

LEBANON

Information submitted by the Alkarama Foundation 18 June 2012

--- Please note that all references to the content of legal texts are informal translations ---

1. a) *Please indicate if your country has a specific legal framework, laws or regulations that aim to facilitate or protect the activities and work of human rights defenders. Please cite the names of any such laws or regulations in full.*

Although the Universal Declaration of Human Rights is mentioned in the Preamble of the Lebanese Constitution (see below), Lebanon has no law aiming to facilitate or protect the activities and work of human rights defenders.

Preamble of the Lebanese Constitution:

(...)

b. Lebanon is Arab in its identity and in its association. It is a founding and active member of the League of Arab States and abides by its pacts and covenants. Lebanon is also a founding and active member of the United Nations Organization and abides by its covenants and by the Universal Declaration of Human Rights. The Government shall embody these principles in all fields and areas without exception. Lebanon is also a founding and active member of the United Nations Organization and abides by its covenants and by the Universal Declaration of Human Rights. The Government shall embody these principles in all fields and areas without exception.

There are two laws which cover the work of journalists and the media, the 'Visual Media Law' and the 'Law of Publications', but they do not include any article which provide protection for human rights defenders or mention the Declaration on Human Rights Defenders.

b) *Please indicate how these laws and regulations are in line with international human rights standards, including, but not limited to, the Declaration on Human Rights Defenders.*

N/A

c) *Please also indicate what legal or administrative safeguards are put in place to prevent baseless legal action against and/or prosecution of human rights defenders for undertaking their legitimate work.*

To our knowledge, there are no legal or administrative safeguards put in place to prevent baseless legal action against human rights defenders. Even worse, existent articles of the Lebanese Criminal Code and the Code of Military Justice are invoked to hamper their legitimate work.

2. a) *Please describe the measures taken, if any, to ensure that your country's national security-related laws (including laws on public order, public safety, respect for morals*

and counter terrorism laws) are not used to unduly restrict the scope of activities of human rights defenders.

There are no administrative or legal safeguards to ensure that these types of laws are not used against human rights defenders. On the contrary, different State agencies make use of laws on public order or respect for morals to justify harassment and persecution of human rights defenders. In recent months, these types of restrictive measures have increased, as observed by our organisation. By way of example, we wish to recall the case of our representative in Lebanon, Mr Saadeddin Shatila:

- Following substantial work on torture in Lebanon Mr Shatila was repeatedly summoned for questioning between July and October 2011. He was at apparent risk of being charged based on article 157, paragraph 2, of the Code of Military Justice of 13 April 1968, which states that:

“...it will be punished with imprisonment from two months to two years the one who undertakes in times of peace to publish or report or disclose anything related to army or military incidents inside or outside the barracks, related to actions taken by the military against one of its members, orders or decisions issued by this authority, (...) the movement of units, detachments and formations, promotions, arrests of suspects, tracking down rebels or the operations carried out by the forces of the state, with the exception of communications and radio stations that allow publishing the competent authority.”

b) *Please also indicate in particular how these national security-related laws respect the human right to freedom of expression and opinion.*

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3. a) *Please describe the measures taken, if any, to ensure that provisions of the criminal code, or other national laws, are not ambiguous or too broad to allow their arbitrary use, thereby restricting the activities of human rights defenders.*

There are different passages of Lebanese legislation which are used arbitrarily to restrict the activities of human rights defenders. An example of this is the persecution endured by members of the Lebanese Centre for Human Rights (CLDH):

- On 10 February 2011, the CLDH issued a report on entitled *Arbitrary Detention and Torture: The bitter reality of Lebanon*. Subsequent to the publication of this report and to this day, members of the CLDH continue to be summoned for questionings and even tried. Most recently, two of their representatives were summoned for investigations and are ‘suspected’ of crimes defined by article 317 of the Lebanese Criminal Code, which concerns ‘incitement of sectarian conflicts between various Lebanese communities.’

b) *Please indicate what legal or administrative safeguards are in place in order to ensure that human rights defenders are not discriminated against in the administration of justice, be it through the handing down of disproportionate sentences, the unreasonable prolongation of criminal or other trials, or any other means.*

There are no safeguards in place in order to ensure that human rights defenders are not discriminated against in the administration of justice.

4. a) *Please indicate if your country has specific laws or administrative rules governing the registration, functioning and funding of non-governmental organizations. Please cite the names of any such laws or regulations in full.*

The law regulating the work of NGOs dates from the Ottoman period. It is called the ‘Law of Organisations’ and was issued in 1909. The text states that “the establishment of an organisation does not require a license in advance, but it is required to inform the

government of its founding.” These remain the conditions of establishing a local organisation.

However, different regulations apply for foreign organisations. Based on resolution No. 369/LR issued by the French High Commissioner on 31 December 1939, foreign organisations need a certain type of certification from the Council of Ministers to officially register. In order to obtain this certification, they need to announce their intention to register to the Ministry of Interior and the Ministry of Foreign Affairs as well as the security forces and obtain their approval. Even without intention to explicitly slow down these administrative steps, the process of application is of excessive length, prone to corruption and susceptible to discrimination.

b) *Please explain how these legal or administrative provisions comply with your country's international human rights obligations regarding the right to freedom of association.*

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5. a) *Are there criminal or other legal or administrative sanctions for human rights defenders who undertake activities on an individual basis or while the association they are members of is unregistered?*

There is no law which protects individuals and their activities in this regard and unregistered associations as well as their members are treated as 'secret organisations' in case the authority decides to prosecute them. Articles 12 and 13 of the 'Law on Organisations' define the sanctions which can be imposed on such organisations, namely that secret organisations are to be disbanded and their funds should be confiscated. The secret organisation's administrative or executive members are to be punished by imprisonment going from six months to two years and will be fined between one hundred thousand pounds to one million pounds. Regular members are to be punished by half of both penalties.

b) *If such a legal framework exists, does it restrict the type of activities that human rights defenders can undertake? If yes, please provide further details.*

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6. *Please indicate the measures taken, if any, to ensure that internal security and official secret-related laws are not used to deny freedom of information to human rights defenders and to prosecute them for their efforts to seek and disseminate information on the observance of human rights standards.*

There are no such measures.

7. a) *Please indicate the measures taken, if any, to avoid the use of defamation, slander or blasphemy laws to unduly restrict the right to freedom of opinion and expression of human rights defenders.*

Two passages of the Lebanese Criminal Code, in force since 1 March 1943, relate to libel and slander. The first set of articles, articles 358 to 389 are included in chapter 2 on offenses against public authority. Article 388 in particular states that if a member of the public authority is the subject of slander, the author of the act of slander will be punished by

“...one month to one year if it is directed against by the Head of State [President]. The sanction will be of six months at most if the libel is directed against a court or regulatory authority, the military or public administration (...)”

There were, for example, several Lebanese bloggers who were arrested and then feared to be accused based on the aforementioned article after expressing their discontent on

the outcome of the presidential elections. A second passage of the Criminal Code, articles 582 to 586, relate to crimes against freedom and honour, but are less invoked while persecuting human rights defenders and political activists.

b) *How is it ensured that such laws, as well as laws on printing, publication and censorship, comply with international human rights standards and do not target human rights defenders carrying out their legitimate work?*

There are no such assurances.

8. *Please indicate if any other type of legislation is used to regulate the activities of human rights defenders in your country and how the application of the legislation mentioned affects the activities of human rights defenders. Please cite the names of any such legislation in full.*

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