
amnesty international

Lebanon

Submission to the UN Universal Periodic Review

**Ninth session of the UPR Working Group of the
Human Rights Council**

November-December 2010



Executive summary

In this submission, Amnesty International provides information under sections B, C and D, as stipulated in the *General Guidelines for the Preparation of Information under the Universal Periodic Review*.¹

- Under section B, Amnesty International raises concern about legislation and governmental decisions which are discriminatory. Such discriminatory laws deny Lebanese women equal rights to men, and the right to confer their nationality to their children and spouses. Other measures also impact negatively on the human rights situation of Palestinian refugees in Lebanon.
- Section C highlights Amnesty International's concerns about the failure of successive governments since the end of the civil war in 1990 to address grave human rights violations of the past, including abductions and enforced disappearances mainly during the civil war; failure to protect fundamental rights of Palestinian refugees; failure to address the situation of migrant domestic workers, torture and ill-treatment; and the death penalty.
- In section D, Amnesty International makes a number of recommendations for action by the government to address the areas of concern.

¹ Contained in Human Rights Council Decision 6/102, Follow-up to Human Rights Council resolution 5/1, section I adopted 27 September 2007.

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B. Normative and institutional framework of the State

1. Legislation on women's rights to equality

The country's multiple personal status codes contain discriminatory provisions regarding marriage, divorce, parenting and inheritance. Nationality laws dictate that children receive their nationality only from their father and not from their mother. The Committee on the Elimination of Discrimination against Women, responsible for overseeing the implementation of the Convention on the Elimination of All Forms of Discrimination against Women, to which Lebanon is a state party, reiterated in 2008 its concern about these issues.

The nationality law does not allow Lebanese women to pass on their nationality to their spouse or children, even if they were born in Lebanon. The children of a Lebanese woman married to a foreign national can not obtain Lebanese nationality. Non-Lebanese men married to Lebanese women also cannot get Lebanese citizenship, whereas non-Lebanese women married to Lebanese men can acquire Lebanese nationality after one year of marriage.

Law No. 15 of 1925 states that mothers are allowed to confer their nationality to their children only in two specific cases:

- A Lebanese mother can give her nationality to her child if the child is born out-of-wedlock and the father is unknown;
- A non-Lebanese mother, who has minor children from a previous marriage to a non-Lebanese father and who subsequently acquires Lebanese nationality through marriage to a Lebanese man, can confer her acquired Lebanese nationality to her minor non-Lebanese children upon the death of her Lebanese husband.

Children born to Lebanese mothers and foreign national fathers face obstacles in accessing basic rights such as the right to education due to Law No. 686 of 1998, which amended Article 49 of Decree No. 134/59 on free public education (see below).

When the children of a Lebanese mother and a foreign father reach the age of 18, they can only work legally if their employer is willing to pay to obtain a work permit for them. For this reason, employers usually avoid employing them.

In July and September 2009, the public prosecution and a legal commission at the Ministry of Justice challenged a June 2009 decision by three judges to allow Lebanese citizen Samira Soueidan to pass on her nationality to three of her children. The children's father, an Egyptian national, had died in 1994. A hearing session was held on 13 April 2010, and the ruling on the case is expected to be reached on May 18 2010. Lebanese officials opposing the right of women to pass on their nationality to their children and spouses justify their position by stating that extending this right could disturb the country's demographic balance.

In its fortieth session in 2008, the UN Committee on the Elimination of Discrimination against Women

regretted Lebanon's assertion that it could not, for political reasons, amend its nationality law to allow Lebanese women to pass their nationality to their children and foreign spouses. Denying Lebanese women the right to pass their nationality to their children and spouse constitute a breach of the cornerstone principle of non-discrimination, including Article 2, 3 and 26 of the International covenant on Civil and Political Rights which enshrine the principles of non discrimination on the ground of sex, equality between women and men and equality before the law respectively.

2. Legislation affecting the rights of Palestinian refugees

Amnesty International is concerned that discriminatory laws and regulations relating to property, social security and education continue to be in effect, affecting nearly 422,000 Palestinian refugees, who are registered in Lebanon.

Much of the discriminatory treatment Palestinians face is rooted in their statelessness, which has far-reaching consequences and deprives them from the enjoyment of rights on equal footing with not only Lebanese nationals, but also other foreign residents in Lebanon.

The principle of reciprocity is applied in some laws, whereby the right to work is granted to nationals of states which grant Lebanese citizens the right to work in their countries. This leads to Palestinians not having the right to work because they are stateless.

Law violating the right of Palestinian refugees to own and inherit property

Presidential Decree 11614 of 4 January 1969, as modified by law 296 of 3 April 2001, prohibits persons who do "not carry a citizenship issued by a recognized state" from owning property in Lebanon. This law does not explicitly refer to Palestinians, but Article 1 of the amended Decree provides:

No non-Lebanese person, either natural or juridical, ... is entitled to acquire through a contract or any other legal deed concluded between living persons, any real property rights in Lebanese territory ... No real right of any kind may be acquired by any person that does not carry a citizenship issued by a recognized state, or by any person if such acquisition contradicts with the provisions of the constitution relating to the prohibition of settlement (Tawteen)

This law thus directly discriminates against stateless persons, and in Lebanon the overwhelming majority of Palestinian refugees are *de jure* stateless. This restriction on the right to own property greatly diminishes the possibility for Palestinians to be guaranteed a degree of security of tenure outside of camps, forcing the majority of them to remain in overcrowded and often unsanitary camps. Amnesty International is concerned that, in addition to preventing Palestinians from acquiring property, the amended decree also prevents them from inheriting property or registering real estate bought in instalments because they are unable to register such property.

Successive government ministers have justified prohibiting Palestinians from owning property and from transferring their already purchased apartments and deeds to their children by stating that the law is in line with the government's opposition to the resettlement of Palestinian refugees in Lebanon.

Law violating the right of Palestinian refugees to social security

Palestinian refugees in Lebanon face discrimination in access to social security due to their status as stateless persons, as access to social security for non-citizens in Lebanon is dependent on "reciprocity of treatment". The Social Security Law provides:

Foreign labourers working on Lebanese soil are not subject to the provisions of this law, and therefore not entitled to the benefits of any and all sections of Social Security, except if the country of their origin affords its Lebanese residents the same treatment as its own citizens with regard to Social Security.

By denying Palestinian refugees the right to social security, the law is effectively also denying all Palestinian refugee children social security protection, since their parents or the workers in their family are not covered by the social security scheme due to their status as stateless people.

Law violating the right of Palestinian refugees to education

Law No. 686 of 1998, which amended Article 49 of Decree No. 134/59 provides that:

Public education is free and compulsory in the primary phase, and is a right of every Lebanese in the primary education age.

By specifying that only Lebanese children have a right to free primary education, children born to Lebanese mothers and foreign national fathers and non-Lebanese long-term residents, including Palestinian refugee children, are denied such access to education.

C. Promotion and protection of human rights on the ground

1. The right of Palestinian refugees to work

For many years, more than 70 job categories were off-limits to Palestinians – by government decree. In June 2005, in a welcome but partial move, then Minister of Labour, Trad Hamade, lifted the ban on 50 of these jobs.

However, serious concerns remain about Palestinians' rights in the labour market. First, many Palestinians were already working in these jobs, but illegally. Although they can now do such work "legally", there is a disincentive to regularize their positions as they would then have to pay taxes, but would still not be entitled to benefit from the social security system, as detailed above. Second, the 2005 government decision to lift the ban on some jobs has not been passed into law and could therefore be reversed or amended at any time. Third, professions such as law, medicine and engineering remain prohibited for Palestinians.

In many countries, citizens enjoy preferential treatment over foreign nationals in terms of access to employment. In Lebanon, this differentiation extends to non-nationals who were born or have lived most or all of their lives in Lebanon, most notably Palestinian refugees.

2. Situation of Palestinian non-ID holders

At least 3,000 Palestinian refugees have no official identification documentations because they arrived in Lebanon after the Palestine Liberation Organization was expelled from Jordan in 1971. Such documentation is required for proving their residence in Lebanon, for registering births, marriages and deaths, and for other essential purposes. In 2008, the Lebanese authorities issued temporary ID cards valid for one year to some 800 Palestinians as a step towards legalizing their status and to enable them to move freely in the country. In 2009, however, the General Directorate of the General Security prevented further ID cards from being issued, leaving Palestinian refugees to continue facing severe obstacles in accessing their basic rights. In 2010, the issuance of ID cards resumed; however, it remains unclear what rights are granted to individuals holding these temporary cards.

Children whose father is a registered Palestinian refugee are also registered as refugees by the United Nations Relief and Works Agency (UNRWA) and recognized as such by the Lebanese authorities. However, children born to Palestinian fathers who do not possess recognized identity documents are not registered with UNRWA and do not receive recognized identification documents from the Lebanese authorities or acquire Lebanese nationality even if they have a Lebanese mother (see above).

Such children face obstacles in exercising their human rights, including to education. They are generally denied recognition of educational achievement in Lebanese secondary schools as all students require identification documents – conspicuously lacking for non-ID Palestinian refugees – to sit the Lebanese state exams, which in turn give access to higher levels of education.

3. Prevailing impunity for human rights violations

Thousands of cases of enforced disappearances and abductions carried out during the 1975-1990 civil war remain unresolved.

In October and November 2009, however, a court ordered the authorities to provide it with confidential findings of investigations conducted by the Official Commission of Investigation into the Fate of the Abducted and Disappeared Persons in 2000 and information relating to two mass graves in Beirut: the St Demetrious Cemetery in Ashrafieh and the Martyrs' Cemetery in Horsh Beirut. After reviewing the findings, the court would then decide on the claim filed by organizations representing the families of disappeared persons demanding that two mass graves believed to contain remains of unidentified victims of abductions and enforced disappearances be protected. So far, the Lebanese authorities have generally failed to protect mass graves and to conduct exhumations from the civil war period.

In November 2009, the body of British journalist Alec Collett, who was seized from a car in Beirut in 1985, was discovered and exhumed by a team of British experts working in co-operation with the Lebanese authorities in the Bekaa Valley in eastern Lebanon. The identification of the remains as those of Alec Collett was confirmed by a DNA test. The remains were found in the town of Aita al-Foukhar at a site formerly used as a base by Fatah, the Revolutionary Council, a Palestinian militia more commonly known as the Abu Nidal Organization that had claimed responsibility for his kidnapping in 1985 and killing in 1986. The British team reportedly also found at the same site the body of a younger individual, but its identity was apparently not established and the body was subsequently reburied. The apparent inability of the Lebanese authorities to identify the second body discovered by the British team also highlights their failure to establish a database containing DNA samples from family members of those who went missing during the war.

The discovery and identification of Alec Collett's remains draws into sharp contrast the inadequacy of efforts by the Lebanese authorities to reveal the fate and whereabouts of the thousands of Lebanese, Palestinian and other nationals who were abducted by various armed militias or subjected to enforced disappearance by Lebanese, Syrian and Israeli forces during the civil war.

Lebanon has signed, but not yet ratified, the International Convention for the Protection of All Persons from Enforced Disappearance.

4. Situation of migrant domestic workers

Women migrant domestic workers continue to face exploitation and physical, sexual and psychological abuse in their workplace.

In January 2009, the Labour Ministry introduced a standard employment contract for migrant domestic workers, the vast majority of whom are women. The contract includes a job description and sets out the rights and responsibilities of the employer and employee, and the maximum number of working hours. However, no monitoring process has been established to ensure employers' compliance and the change appears insufficient to afford migrant domestic workers effective protection.

5. Torture and other ill-treatment

In a welcome development, Lebanon ratified the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment on 22 December 2008 and the Lebanese Ministry of Justice has made a proposal to set up an independent national mechanism to visit detention centres in the country with a view to preventing torture and other ill-treatment. However, the government has failed to meet

the deadline of the Protocol requiring the government to establish such a mechanism within one year of ratification.

While the Penal Code forbids physical violence against detainees and provides for penalties against officials found responsible for such actions, the law does not criminalize all forms of torture and does not provide for penalties appropriate to the grave nature of the crime.

In addition, confessions extracted under torture are sometimes used as evidence in courts. On 18 February 2010, Mahmoud Rafeh, a retired Internal Security Forces official, who alleged that he was tortured in pre-trial detention and forced to confess by Military Intelligence officials, was handed down a death sentence by a military tribunal in Beirut (see below).

6. The death penalty

At least 42 people, including one woman, are under sentence of death in Lebanon. In a January 2010 letter to Amnesty International, the Lebanese government stated that no death sentences were issued in 2009. However, on 18 February 2010, a Lebanese man, Mahmoud Rafeh, was sentenced to death in a high profile trial in connection with a car bomb assassination of an official belonging to the Palestinian Islamic Jihad group and his brother in the southern city of Sidon in 2006. A second man, a Palestinian, was tried and sentenced to death *in absentia* in relation to the same case.

Lebanon has upheld an unofficial moratorium on executions, which has lasted since 1998 with the exception of three simultaneous executions in 2004. Lebanon abstained in the last two votes in 2007 and 2008 on the UN General Assembly resolution on a moratorium on executions.

A draft law to abolish the death penalty proposed by Justice Minister Ibrahim Najjar and submitted to the Council of Ministers in 2008 has not yet been approved.

D. Achievements, best practice, challenges and constraints

Amnesty International calls on Lebanon:

National legislation affecting women

- To review existing legislation and to amend as necessary any discriminatory provisions relating to gender equality, including rights in marriage, divorce and inheritance, and the right of women to confer nationality to their children and spouses;
- To amend Law No. 15 of 1925 relating to nationality to give women equal rights with men to confer their nationality to their children and spouses in conformity with Articles 2, 3, 24 and 26 of the International Covenant on Civil and Political Rights (ICCPR) and Article 7 on the Convention on the Rights of the Child;
- To lift all reservations to the Convention on the Elimination of all Forms of Discrimination against Women, including Article 9 paragraph 2.

National legislation affecting the rights of Palestinian refugees

- To review existing legislation and to amend as necessary any provisions that do not comply with Lebanon's obligations under international law, including:
 - To amend Law No. 296 of 3 April 2001 to enable Palestinians to exercise their right to own and inherit property, and to ensure that such amendment is in conformity with Article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination

(ICERD) and other provisions proscribing discrimination included in the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights (ICESCR);

- To amend provisions of the social security law to grant Palestinians and their children equal rights to public health services, medical care, social security and social services, and to ensure that all amendments are in conformity with Article 5 of the ICERD, Article 26 of the Convention on the Rights of the Child (CRC) and the ICESCR;
- To amend the Labour Law to allow Palestinians to have equal access to employment in jobs that were restricted to them prior to 2005, to equal wages as Lebanese citizens, and to attain job security; and also to remove the restrictions on the remaining 20 job categories and to ensure that these amendments are made permanent in law;
- To make primary education compulsory, free and available to all children, and to ensure that the government respects its obligations under Article 28 of the CRC and Article 13 of the ICESCR.

Situation of Palestinian non-ID holders

- To take immediately all necessary steps to regularize, without delay, the status of non-ID Palestinian refugees in Lebanon, including by:
 - Registering all non-ID Palestinian refugees under Lebanese jurisdiction, providing them with official identification documents, ensuring that all their current and future children are provided with the necessary registration and documents, and ensuring that the authorities comply with article 7(1) of the CRC and article 24 of the ICCPR, which stipulates that every child has the right to be registered immediately after birth and the right to have a name and to acquire a nationality;
 - Allowing, with immediate effect, Palestinian refugee students who do not have identification documentations to sit the Lebanese state exams, which give access to higher levels of education.

Abductions and enforced disappearances

- To ratify the International Convention for the Protection of All Persons from Enforced Disappearance;
- To establish a body aimed at ensuring that the right to truth, justice and reparation of families of victims of abduction and enforced disappearance is upheld, and tasked to achieve the following:
 - Locating Lebanese citizens and foreign nationals who were abducted on Lebanese soil and transferred to other countries, and undertaking all efforts to secure their release;
 - Locating and protecting mass graves in Lebanon believed to contain the remains of unidentified victims of the civil war that could belong to those who were subject to abductions and enforced disappearances, including three mass graves located in Beirut and mentioned in the findings of the Official Commission of Investigation into the Fate of the Abducted and Disappeared Persons in 2000: the St Demetrious Cemetery in Achrafieh, the Martyrs' Cemetery in Horsh Beirut and the English Cemetery in Tahwita;
 - Locating and protecting other possible mass graves, including the site that was formerly used as a base by Fatah - the Revolutionary Council, where the remains of Alec Collett and another body were found, and by investigating whether this site contains remains belonging to other victims of the 1975-1990 civil war;

- Exhuming the human remains found in these and other mass graves in accordance with international standards, in particular the UN Model Protocol for Disinterment and Analysis of Skeletal Remains, which provides detailed guidelines for governments to follow when exhuming human remains;
- Setting up a DNA database to eventually identify human remains and to allow many families of victims of abductions and enforced disappearances to finally know the fate of their loved ones.

Situation of migrant domestic workers

- To ensure effective protection to women migrant domestic workers by:
 - Introducing appropriate amendments to the labour law to improve labor standards and enforcement mechanisms in accordance with international standards;
 - Setting up the necessary inspection mechanisms to prevent abuse, ensure regular payment of wages and decent working conditions for migrant domestic workers.

Torture and other ill-treatment

- To take immediate measures to prevent torture by:
 - Expediting the establishment of a robust and independent national mechanism which would have access to all places of detention in Lebanon;
 - Amending articles in the Penal Code to criminalize all forms of torture, regardless of its objective, and to provide for penalties appropriate to the grave nature of the crime;
 - Ensuring that all allegations of torture or other ill-treatment are effectively and promptly investigated by an independent and impartial body, and those responsible for torture or other ill-treatment are brought to justice in fair trials and without recourse to the death penalty;
 - Ensuring that confessions extracted under torture are not used as evidence in courts.

The death penalty

- To take immediate measures leading to abolishing capital punishment by:
 - Immediately establishing a moratorium on executions with a view to abolishing the death penalty as provided by UN General Assembly resolution 62/149, adopted on 18 December 2007, and resolution 63/168, adopted on 18 December 2008;
 - Commuting without delay all death sentences to terms of imprisonment.

Appendix: Amnesty International documents for further reference²

- *Lebanon: Limitations on Rights of Palestinian Refugee Children*
- *Briefing to the Committee on the Rights of the Child*, June 2006, Index: MDE 18/004/2006,
- *Exiled and Suffering: Palestinian Refugees in Lebanon*, October 2007, Index: MDE 18/010/2007,
- *Lebanon: A human rights agenda for the elections*, 7 May 2009, Index: MDE 18/003/2009
- *Lebanon: Identification of journalist's remains must spur action on other civil war victims*, 24 November 2009, Index: MDE 18/009/2009,
- *Lebanon: Give women their right to pass on nationality to their children*, 12 April 2010, Index: MDE 18/003/2010

² All of these documents are available on Amnesty International's website: <http://www.amnesty.org/en/region/lebanon>