



LEBANON

Stakeholder Submission to the United Nations Universal Periodic Review

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**Joint Written Statement submitted by
The Advocates for Human Rights, a non-governmental organization in special consultative status,
in collaboration with Ensemble Contre la Peine de Mort (ECPM) and the Lebanese Coalition for
the Abolition of the Death Penalty**

Founded in 1983, The Advocates for Human Rights (“The Advocates”) is a volunteer-based non-governmental organization committed to the impartial promotion and protection of international human rights standards and the rule of law. The Advocates conducts a range of programs to promote human rights in the United States and around the world, including monitoring and fact finding, direct legal representation, education and training, and publications. In 1991, The Advocates adopted a formal commitment to oppose the death penalty worldwide and organized a Death Penalty Project to provide pro bono assistance on post-conviction appeals, as well as education and advocacy to end capital punishment. The Advocates currently holds a seat on the Steering Committee of the World Coalition Against the Death Penalty.

Since 2000, Together against the Death Penalty (Ensemble contre la peine de mort - ECPM) acts to fight against the death penalty around the world. The association promotes the universal abolition through the creation and dissemination of publications and teaching tools, as part of public campaigns and lobbies governments at both national and international levels. ECPM has been working for the past 10 years with the victims of capital punishment: death row inmates, former death row prisoners released, families of prisoners, families of victims of murder, and terrorism, and others including doctors, psychologists, prison guards, lawyers; all of their personal experience, can help to become aware of the extent of the cruelty of the death penalty.

This stakeholder report is submitted in collaboration with the Lebanese Coalition for the Abolition of the Death Penalty.*

* Founded in 1997, the Lebanese Coalition for the Abolition of the Death Penalty is a group of 64 parties and civil organizations gathered to act against the death penalty and killing in the name of the law. This coalition started the

I. EXECUTIVE SUMMARY

1. This submission informs on Lebanon's international human rights obligations with regard to its use of the death penalty. This submission concludes that prison conditions of death row in Lebanon are degrading and makes recommendations that steps be taken to alleviate such conditions. These steps include both reducing the maximum possible sentence from death to one that is fair, proportionate and respects international human rights standards, issuing a de jure moratorium, and instituting an appeals process for all decisions issued by the Judicial Council.¹

II. LEGAL FRAMEWORK

A. Domestic Legal Framework

1. Legal Basis for the Death Penalty

2. While Lebanon has effectively suspended the death penalty through a de facto moratorium, the death penalty remains a potential punishment for several offenses, including the following: (1) aggravated murder;² (2) gang robbery or gang assault if a person is killed in furtherance of the criminal activity;³ (3) arson against certain structures;⁴ (4) sabotage of communications, transportation or industrial facilities;⁵ (5) complete or partial destruction of a building containing at least one person;⁶ (6) gang robbery involving torture;⁷ (7) importing nuclear, toxic, hazard waste, or polluting waterways;⁸ (8) treason against Lebanon;⁹ (9) espionage for an enemy;¹⁰ (10) military crimes including desertion, crimes against honor and military duty, military treason and conspiracy, robberies and destruction;¹¹ (11) aggravated assault;¹² and (12) recidivist crimes if committed by individuals serving life sentences.¹³

process for the abolition of death penalty in Lebanon, paving the way for more appropriate conditions, which will definitely make Lebanon progressively get rid of capital punishment.

¹ U.N. Standard Minimum Rules for the Treatment of Prisoners, adopted Aug. 30, 1955, by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, U.N. Doc. A/CONF/611, annex I, E.S.C. res. 663C, 24 U.N. ESCOR Supp. (No. 1) at 11, U.N. Doc. E/3048 (1957), amended E.S.C. res. 2076, 62 U.N. ESCOR Supp. (No. 1) at 35, U.N. Doc. E/5988 (1977).

² Lebanon Penal Code art. 549 (1975).

³ Lebanon Penal Code, art. 336.

⁴ Lebanon Penal Code, art. 591 (1975).

⁵ Lebanon Penal Code, art. 599 (1975).

⁶ Lebanon Penal Code, art. 315 (1975).

⁷ Lebanon Penal Code, art. 336.

⁸ Law of the Maintenance of the Environment from Pollution by Hazardous Waste and Materials, art. 10, 11, No. 64 of 1988, amended by Law No.266 of 1993.

⁹ Lebanon Penal Code, art. 273 (1975). The definition of the crime of treason against Lebanon is subject to change depending on the government in power and is often influenced by political, religious or social affiliations. Personal Communication to Nicholas Braye, Project Manager, Ensemble Contre la Peine de Mort (ECPM), Mar. 13, 2015.

¹⁰ Lebanon Penal Code, art. 282, 284, 257 (1975).

¹¹ The Arab Penal Reform Organization, "A Discussion of a Report on Executions in the Arab World in Sharm Al Sheikh," Hood Online, http://www.hoodonline.org/news_details.php?sid=1136 (2007).

¹² Lebanon Penal Code, art. 336.

¹³ Lebanon Penal Code, art. 258 (1975).

2. *Death Penalty in Practice*

3. Lebanon has not executed a prisoner under the death penalty since 2004.¹⁴ Currently, Lebanon has between 55 and 60 prisoners on death row, imprisoned mainly in Roumieh and Tarablus prisons.¹⁵
4. While the death penalty has not been carried out since three individuals were executed in 2004,¹⁶ the death penalty is still being sought in Lebanon and individuals are still being sentenced to capital punishment. For example, in July 2014, Military Investigative Judge Imad al-Zein requested the death penalty for a female Syrian detainee accused of terrorism.¹⁷ Again in January 2015, Judge Peter Germanos issued an indictment recommending the death penalty against six individuals charged with the murder of Yves Nawfal.¹⁸

B. *2010 Universal Periodic Review of Lebanon*

5. While numerous recommendations were made to the country regarding the death penalty, Lebanon noted the recommendations made at its last Universal Periodic Review:
 - Maintain the current de facto moratorium and introduce a de jure moratorium on executions until the government abolishes the death penalty;
 - Abolish the death penalty, including through measures such as promptly adopting the draft law on the abolition of the death penalty;
 - Commute existing death sentences to a prison sentence with a view toward abolition;
 - Consider ratification of the Second Optional Protocol to the ICCPR;
 - Adopt officially General Assembly resolution 62-149 on a moratorium on the death penalty.¹⁹

III. PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND

A. *Lebanon's Treatment of Death Row Inmates Constitutes Cruel and Inhuman Treatment.*

1. *Location and Composition of Death Row.*

6. Death row inmates are housed in several different prisons, with the majority being housed in Roumieh and Tarablus prisons.²⁰

¹⁴ Abdelaziz Shafi, Nadir. "The Death Penalty Under Lebanese Law." *The Army Journal*, no. 352 (2014), available at <http://www.learmy.gov.lb/ar/news/?41669#.VPXi5Y73-ix> (last visited Feb. 20, 2015).

¹⁵ See, e.g., Abdelaziz Shafi, Nadir. "The Death Penalty Under Lebanese Law." *The Army Journal*, no. 352 (2014), available at <http://www.learmy.gov.lb/ar/news/?41669#.VPXi5Y73-ix> (last visited Feb. 20, 2015).

¹⁶ Dalila Mahdawi, "The Year of Missed Opportunities," *Daily Star*, http://www.dailystar.com.lb/article.asp?edition_ID=1&article_ID+110273&categ_id=1, Jan. 4, 2010

¹⁷ <http://www.dailystar.com.lb/News/Lebanon-News/2014/Jul-03/262519-death-penalty-sought-for-syrian-in-terror-case.ashx>

¹⁸ <http://www.dailystar.com.lb/News/Lebanon-News/2015/Jan-28/285626-judge-want-death-penalty-for-6-over-yves-nawfal-killing.ashx>

¹⁹ Report of the Working Group on the Universal Periodic Review: Lebanon, Human Rights Council, 16th Sess., Jan. 12, 2011, U.N. Doc. A/HRC/16/18, para. 82.

2. Conditions on Death Row Are Inhuman.

7. Article 16 of the Convention against Torture (the “Convention”) requires Lebanon to “undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment.”²¹ Conditions on Lebanon’s death row violate the prohibition against inhuman and cruel punishment or treatment.
 - a. *The Conditions in Lebanon’s Death Row Are Degrading*
8. Lebanon’s death row prisons fail to provide the minimum necessities of life. Lebanon’s prisons, particularly the Roumieh prison (the primary prison for death row inmates), are overcrowded. The Roumieh prison is the largest prison in Lebanon and is currently filled to more than double its capacity.²² This severe overcrowding causes and exacerbates other degrading conditions, such as unsanitary cells and violence. In January 2013, death row inmate Ghassan Nazir Alqandaqli died of unknown causes, likely the result of violence. The rapid increase of overcrowding is one of the most challenging problems facing the criminal justice system in Lebanon.²³
9. Lebanon’s death rows lack sufficient bedding. Death row inmates also face serious restrictions on daily exercise and time outdoors with access to sunlight and fresh air.²⁴ Some death row inmates are kept in unsanitary solitary confinement.²⁵ Many death row inmates are offered inadequate visitation facilities.²⁶

²⁰ Dalila Mahdawi, “Death row inmates plead for second chance,” *Daily Star*, http://www.dailystar.com.lb/printable.asp?art_ID=110412&cat_ID=1 (Jan. 8, 2010).

²¹ Convention Against Torture, Article 16. *See also id.* at Article 11 (“Each State Party shall keep under systematic review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction, with a view to preventing any cases of torture.”); *id.* at Article 12 (“Each State Party shall ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction.”); *id.* at Article 13 (“Each State Party shall ensure that any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to and to have his case promptly and impartially examined by its competent authorities. Steps shall be taken to ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given.”).

²² Dalila Mahdawi, “Death row inmates plead for second chance,” *Daily Star*, http://www.dailystar.com.lb/printable.asp?art_ID=110412&cat_ID=1 (Jan. 8, 2010).

²³ Centre International d’Etudes Pénales (CIEP): “World prison Brief” - Londres, at www.kcl.ac.uk/depstal/law/research/icps/worldbrief/, Feb. 8, 2010.

²⁴ “Memo on Health Conditions and Log of Patient Names in Roumieh Prison and Other Prisons,” Khiam Center for the Rehabilitation of Victims of Torture (Jan. 10, 2012), *available at* <http://khiamcenter.org/ar/p.php?lang=ar&aid=292>.

²⁵ Lebanese Center for Human Rights, Prisons in Lebanon: Humanitarian & Legal Concerns, <http://cldh-arbitrarydetention.blogspot.com/> (Apr. 20, 2010); U.S. Dep’t of State, 2009 Human Rights Report: Lebanon, <http://www.state.gov/j/drl/rls/hrrpt/2009/nea/136073.htm> (Mar. 11, 2010).

²⁶ “Roumieh Prison in Lebanon . . . Suffering for Prisoners and Their Relatives.” Aljazeera.net (Jan. 18, 2015), <http://www.aljazeera.net/news/reportsandinterviews/2015/1/18/سجن-رومية-بليان-معاناة-للمساجين-وذويهم>

10. Prisoners in Roumieh are often clothed only in their underwear, even during their allotted time with their one permitted visitor.²⁷

11. Female prisoners are in need of specific care, including services that meet their personal hygiene and medical needs.²⁸

b. Authorities Allow Commingling of Adults on Death Row and Minors

12. Authorities in Lebanon allow for adult and minor populations to be mixed, potentially resulting in violence and abuse to the minor populations.²⁹

c. Death Row Prisoners Are Denied Access to Adequate Mental Health and Medical Resources

13. Many death row inmates receive inadequate medical and mental health resources. Prisoners with drug addictions generally do not receive proper treatment.³⁰ Most prisons lack standard medical equipment, and even rudimentary medical supplies such as bandages and rubbing alcohol are absent from many prisons in Lebanon.³¹

d. Prisoners Facing the Death Penalty Experience Lengthy Pre-Trial Incarceration

14. Adding to the overcrowding is the general practice of lengthy pre-trial incarceration for defendants facing the death penalty.

e. Death Row Prisoners Die in Prisons

15. Death of prisoners in Lebanon prisons is quite common, including individuals on death row. In Roumieh, about fifty prisoners have died since 2007.³² In 2011, at least 50 and potentially more than 140 prisoners suffered food poisoning.³³

²⁷ “Roumieh Prison in Lebanon . . . Suffering for Prisoners and Their Relatives.” Aljazeera.net (Jan. 18, 2015), <http://www.aljazeera.net/news/reportsandinterviews/2015/1/18/سجن-رومية-بليبان-معاناة-للمساجين-وذويهم>

²⁸ OMS & UNODC: Déclaration de KIEV sur la santé des femmes en prison (2009), at <http://www.who.int/bulletin>.

²⁹ Lebanese Center for Human Rights, Prisons in Lebanon: Humanitarian & Legal Concerns, <http://cldh-arbitrarydetention.blogspot.com/> (Apr. 20, 2010); U.S. Dep’t of State, 2009 Human Rights Report: Lebanon, <http://www.state.gov/j/drl/rls/hrrpt/2009/nea/136073.htm> (Mar. 11, 2010).

³⁰ Mourtada, Radwan, “Roumieh Prison: Problems and solutions,” *Al-Akhbar* (July 1, 2010), available at <http://www.al-akhbar.com/node/44141>

³¹ “Memo on Health Conditions and Log of Patient Names in Roumieh Prison and Other Prisons,” Khiam Center for the Rehabilitation of Victims of Torture (Jan. 10, 2012), available at <http://khamcenter.org/ar/p.php?lang=ar&aid=292>.

³² “Memo on Health Conditions and Log of Patient Names in Roumieh Prison and Other Prisons,” Khiam Center for the Rehabilitation of Victims of Torture (Jan. 10, 2012), available at <http://khamcenter.org/ar/p.php?lang=ar&aid=292>.

³³ Mortada, Radwan, “Roumieh Prison: Cases of Poisoning and Gangrene,” *Al-Akhbar*, Apr. 26, 2011, available at <http://www.al-akhbar.com/node/10800>

B. The Lack of Adequate Legal Representation for Defendants Facing the Death Penalty in Lebanon Violates Fundamental Human Rights

16. Lebanon lacks a state-funded Office of the Public Defender.³⁴ As a result, defendants facing the death penalty often are unrepresented or lack sufficient legal representation. Volunteer legal aid is scarce, and these unpaid volunteer attorneys often miss hearings and fail to adequately meet with their clients.³⁵ The lack of legal representation is particularly egregious in cases before the Judicial Council, where defendants are not presumed innocent and are generally poor migrants who can ill afford legal representation.³⁶

C. Prisoners Sentenced to Death Are Unable to Exercise Their Human Right to a Mandatory Appeal Violates Fundamental Human Rights

17. Sentences issued by the Judicial Council are not subject to appeal,³⁷ and violate the right to review of a conviction and sentence by a higher tribunal according to law under the ICCPR and the right to a mandatory appeal for death sentences as set forth by the Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty. Although Law No. 711/2005 allows for retrial and court appeals, the Ministry of Justice does not accept regular or exceptional appeals. Additionally, the law does not establish a requirement for a different committee and judge to review the case in retrial, which risks resulting in the same sentence.

The Military court, which issues the most death sentences, does not accept retrial or appeals.³⁸

IV. RECOMMENDATIONS

Lebanon should be praised for its progressive improvement of human rights over the past decade. In particular, its de facto moratorium on death penalty executions since 2004 is commendable, despite its continued practice of seeking and issuing death penalty convictions.

The stakeholders recommend that Lebanon take the following measures:

1. **Replace the death penalty with a sentence that is fair, proportionate and respects international human rights standards.** Lebanon should eliminate the death penalty from its penal code and replace it with a sentence that is fair, proportionate and respects international human rights standards. Current death sentences should be commuted.
2. **Impose an official de jure moratorium on the death penalty, effective immediately going forward and for persons currently on death row.** Lebanon should impose an official de

³⁴ U.S. Dep't of State, 2009 Human Rights Report: Lebanon, <http://www.state.gov/j/drl/rls/hrrpt/2009/nea/136073.htm> (Mar. 11, 2010).

³⁵ Dalila Mahdawi, "Prisons crowded to twice their capacity," *Daily Star*, http://www.dailystar.com.lb/article.asp?edition_ID=1&article_ID=112068&categ_id=1 (Feb. 24, 2010).

³⁶ U.S. Dep't of State, 2009 Human Rights Report: Lebanon, <http://www.state.gov/j/drl/rls/hrrpt/2009/nea/136073.htm> (Mar. 11, 2010).

³⁷ Mona Charmass, "Fighting against the death penalty in the Arab world," World Coalition Against the Death Penalty (Jun. 2008).

³⁸ Personal Communication to Nicholas Braye, Project Manager, Ensemble Contre la Peine de Mort (ECPM), Mar. 13, 2015.

jure, rather than de facto, country-wide moratorium on the death penalty that immediately commutes all death sentences and stays all executions, with a view toward complete abolition of the death penalty.

3. **The Judicial Council should be stripped of the authority to issue the death penalty.** Until an appeals process is created and implemented for decisions of the Judicial Council, the Executive Authority should recommend against the death penalty in all cases it refers to the Judicial Council. Furthermore, the Judicial Council should be stripped of its authority to issue the death penalty.
4. **Create an appeals process and procedure for decisions of the Judicial Council, including death penalty.** Lebanon should revise or abolish Resolution No. 1905 (dated May 12, 1923) by making these decisions subject to appeal and/or by eliminating this extraordinary court system. Create a transparent, just and fair process and procedure for retrials of cases where the defendant's right to due process and fairness was denied.
5. **Provide defense counsel to indigent defendants.** Defendants, especially those in capital cases, should receive free legal representation when they cannot afford a lawyer, a key protection of the right to a fair trial.
6. **Improve conditions in prisons for all inmates, including those on death row.** Ensure that Lebanon meets its obligations to avoid cruel, inhuman, and degrading treatment by improving conditions for all prison inmates, including: adequate medical care and supplies; clean, well-ventilated cells; separate facilities for adults and juveniles; adequate recreation and time outside; adequate clothing and bedding; and sufficient space for each prisoner.
7. **Commit to ensuring appropriate and mandatory training of officials entrusted with upholding the rule of law,** including prison staff, officials involved in detection and prevention of crime, judges, prosecutors, police and defense counsel. Ensure that criminal justice actors receive psychological, health and human rights training that includes the goal of respecting and maintaining prisoners' dignity.

V. QUESTIONS

1. **What steps is the Lebanon government taking to address the conditions of individuals on death row, and what is the specific timeframe of these steps?**
2. **What steps is the Lebanon government taking to convert the de facto moratorium into a de jure moratorium?**
3. **What steps is the Lebanese government is taking to grant the right to appeal to those sentenced by the Judicial Council?**
4. **What steps is the Executive Authority taking to recommend against the death penalty in Judicial Council decisions?**