

Joint Submission on the Promotion of Truth, Justice, Reparations and Guarantees of Non-Recurrence

Background and Framework

1. The 1975–1990 war in Lebanon, and subsequent cycles of political violence, have affected the population in multiple ways¹. The harm suffered by many groups of victims has not been acknowledged or addressed in a meaningful or comprehensive way, which perpetuates the suffering of victims and undermines the subsequent enjoyment of other basic rights by the victims and their families. This ongoing state of injustice not only encroaches on victims' right to a remedy, but also aggravates existing tensions and instability in the country.
2. In Lebanon, the only official initiative conducted to establish what happened after 1975 was a government report released in 1992 that estimated the number of victims of the war². Without a more effective and comprehensive truth-seeking process, reparation efforts have lacked the quantitative and qualitative understanding necessary to design comprehensive and meaningful reparation programs; school students have been left without an updated history curriculum and an ability to engage in critical thinking about the existing multiple narratives; and the recruitment and mobilization capacity of fighters remains high in an environment of enduring inter-communal resentments and fears.
3. There has also been a lack of accountability in Lebanon for those who committed violations of international human rights and humanitarian law and other international crimes. One of the most devastating consequences of the 1991 amnesty law has been the perpetuation of a culture of impunity permeating all aspects of life in Lebanon³. The absence of accountability for gross violations and the selective approach to criminal justice – often prompted by political power-sharing agreements – has left victims bereft of their right to justice. These rights are set out in the Updated Set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity⁴, and the United Nations Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law⁵. Failure to hold perpetrators accountable, to establish and enforce the rule of law, and to adequately acknowledge and compensate the suffering of victims has eradicated civic trust in state institutions.

¹ See, generally, ICTJ, “Lebanon’s Legacy of Political Violence: A Mapping of Serious Violations of International Human Rights and Humanitarian Law in Lebanon, 1975–2008” (2013), https://www.ictj.org/sites/default/files/ICTJ-Report-Lebanon-Mapping-2013-EN_0.pdf

² ICTJ, “Lebanon’s Legacy of Political Violence: A Mapping of Serious Violations of International Human Rights and Humanitarian Law in Lebanon, 1975–2008” (2013), http://ictj.org/sites/default/_les/ICTJ-Report-Lebanon-Mapping-2013-EN_0.pdf

³ ICTJ, “Failing to Deal with the Past: What Cost to Lebanon?” (2014), <http://ictj.org/sites/default/files/ICTJ-Lebanon-Impunity-Report-2014.pdf>

⁴ UN Commission on Human Rights, Updated Set of principles for the protection and promotion of human rights through action to combat impunity, Feb. 8, 2005 (E/CN.4/2005/102/Add.1), in particular, Principles 2 and 19.

⁵ Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law (General Assembly A/RES/60/147, Dec. 20, 2005), art. 18.

4. Every person who suffers harm through the perpetration of a criminal act is entitled to have access to justice and an appropriate remedy⁶. The right to reparation of victims of gross violations of international human rights law and serious violations of international humanitarian law is set out in more detail in several United Nations Conventions and provisions developed by other international bodies⁷. Thus, the Lebanese state has a duty to ensure that all such violations are brought to an end and that all victims receive reparations that are commensurate to the harm they suffered. As a first step, this includes acknowledgement that victims have been wronged and, therefore, entitled to redress. Secondly, the state must ensure that victims are afforded redress to the fullest extent possible. It is important that victims participate in the process to determine which measures are the most appropriate, thus ensuring state compliance with its obligations.
5. An effective and comprehensive search for the truth and implementation of meaningful memorialization measures may support the healing process on the individual and societal level and lay the foundations to prevent recurrence of future conflict. Increasing knowledge about past abuses and their underlying causes is, therefore, an important step towards reconciliation, on the journey towards overall sustainable peace⁸.

Right to Truth

6. It is imperative for the Lebanese State to take measures to acknowledge the harm suffered by victims and work closely with those affected in order to remedy the situation.

i. Clarify the Fate of the Missing and Forcibly Disappeared

7. In 1992, the government estimated that 17,415 persons went missing or were disappeared between 1975 and 1990⁹. Ever since, relatives of missing or disappeared persons have demanded the reinforcement of their right to know the fate of their loved ones. This has been their main demand ever since the armed conflict in Lebanon broke out in the mid-1970s. These enforced disappearances have furthermore generated a host of administrative, legal, and psychosocial issues that victims continue to face to this day. A different, but related, issue is the lack of legal recognition of a missing or disappeared person's status. The only option

⁶ UN General Assembly, Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, Nov. 29, 1985 (A/RES/40/34).

⁷ See, for example, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1465 U.N.T.S. 85, Dec. 10, 1984, entered into force June 26, 1987), art. 14; UN Committee against Torture, General Comment No. 3: Implementation of article 14 by States parties, Nov. 19, 2012 (CAT/C/GC/3), para. 6; International Convention for the Protection of All Persons from Enforced Disappearance (General Assembly A/RES/61/177, UN Doc A/61/448, Dec. 20, 2006, entered into force Dec. 23, 2010), preamble, art. 24; Convention on the Prevention and Punishment of the Crime of Genocide (78 U.N.T.S. 277, Dec. 9, 1948, entered into force Jan. 12, 1951), art. 6; Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law (UN General Assembly A/RES/60/147, Dec. 20, 2005), art. 18.

⁸ This is supported by a 2014 ICTJ report, "How People Talk About the Lebanon Wars: A Study of the Perceptions and Expectations of Residents in Greater Beirut," which found that "younger participants regarded broad-based historical clarification as fundamental to moving beyond partisan historical accounts." Further, victims who were directly affected by violence "emphasize the importance of confronting the past to bring closure to the pain and suffering experienced, and to help unite Lebanese society through creating a shared understanding of the past."

⁹ See Lebanese Center for Human Rights, "Report: Lebanon Enforced Disappearances and Incommunicado Detentions" (2008), 11.

provided to families is to have their relative declared deceased for the purposes of settling any pending legal, financial, or administrative issues. Many of the disappeared were the male “breadwinner” of the household. Women, thus, face particular hardships as they assume the role of family leader in a deeply patriarchal society. This additional burden must be acknowledged and adequate support and reparations should be provided¹⁰.

8. Two official fact-finding commissions, in 2000 and 2001, yielded no meaningful results to the families. The Lebanese state has thus more recently acknowledged that the issue remains pending. Former President Michel Suleiman, for example, in his 2008 Inaugural Oath address, stated: “we should dedicate ourselves wholeheartedly to the mission of freeing the prisoners and the detainees as well as revealing the destiny of the missing persons in addition to recovering our sons who sought refuge in Israel, for the homeland embraces all of its sons.”¹¹
9. Families demand their right to the truth, including the right to an effective investigation, verification of facts, and public disclosure of what happened. These demands were laid out in a joint memo of 17 Civil Society Organizations that was presented to the President of the Republic on June 5, 2008. Among other things, the memo requested the ratification of various UN Conventions and reform of the Lebanese Penal Code.
10. Finally, on March 4, 2014, Lebanon’s State Council issued a ruling that declared that relatives of missing people have the right to truth concerning the fate of their family members¹². Furthermore, as a good faith gesture, the government handed the families a copy of the government’s investigation file in September 2014.
11. On April 16, 2014, two Members of Parliament presented to the Parliament a Draft Law for Missing Persons and Forcibly Disappeared developed by Civil Society Organizations, including the family committees, that seeks to establish the legal, administrative, and institutional framework necessary to engage in a truth-seeking process that conforms with international norms and best practices.¹³

Recommendations:

- 12. Adopt the Draft Law for Missing and Forcibly Disappeared Persons by the Parliament which was submitted on April 16, 2014¹⁴.**
- 13. Clarify the fate of Lebanese Citizens Detained in Syria and other foreign states and non-state actors.**

¹⁰ Christalla Yakinthou and ICTJ, “Dancing with the Shadows of its Past: The Impact of Disappearance on the Wives of Lebanon’s Missing” (forthcoming).

¹¹ Michel Suleiman, “Inaugural Oath Address” (2008), www.presidency.gov.lb/English/President/Pages/Inaugural-speech.aspx. The issue of the disappeared was also mentioned in Ministerial statements of three successive cabinets: 1) under Prime Minister Najib Mikati (2011–2014), see: “Full text of the Lebanese Cabinet’s ministerial statement,” *the Daily Star*, Jul. 2, 2011, www.dailystar.com.lb/News/Lebanon-News/2011/Jul-02/142600-full-text-of-the-lebanese-cabinets-ministerial-statement.ashx#ixzz3BUF6MhLt (English)

¹² See “Lebanon’s Disappeared: Ruling Consecrates Rights to the Truth,” *The Legal Agenda*, Apr. 3, 2014, http://english.legal-agenda.com/document.php?id=5&folder=documents&lang=en#.U_7oMpXlpio (English).

¹³ See, generally, ICTJ, “Law for Missing & Forcibly Disappeared Persons” (2012), www.actforthedisappeared.com/assets/documents/Draft-Law-Eng.pdf (English).

¹⁴ Text of the Draft Law (in English) is available in: ICTJ, “Law for Missing & Forcibly Disappeared Persons” (2012), 9-23, www.actforthedisappeared.com/assets/documents/Draft-Law-Eng.pdf

14. **Provide a “Missing Person Certificate” which would create a clear and recognized status for the missing or disappeared that applies to the personal, property, and family relations of the disappeared and allow the nearest family member to take decisions involving its application.**
15. **Ratify the International Convention for the Protection of all Persons from Enforced Disappearance¹⁵.**

ii. Truth-Seeking Measures

16. The Lebanese State should establish an independent commission to conduct comprehensive investigations into gross human rights violations and violations of International Humanitarian Law committed from the beginning of the war in 1975 until the present. This search for the truth should be conducted in close consultation with relevant stakeholders.
17. Furthermore, a balanced reflection on Lebanon’s recent past should be promoted at all levels of education. The curricula should include the period of recurrent armed conflicts, paying special attention to an inclusive telling of this complex past in a way that is appropriate to the different age groups. The Ministry of Education is encouraged to cooperate with other state or non-governmental institutions to ensure a balanced reflection of diverse experiences in classes such as history, literature, and civic education. Curricula should emphasize reflection, tolerance to different viewpoints, and constructive dialogue. Teachers should be trained in specific methodologies to effectively foster a culture of openness and understanding.

Recommendations:

18. **Establish an independent commission to conduct comprehensive investigations into gross human rights violations of International Humanitarian Law committed from the beginning of the war until the present.**
19. **Amend and update school curricula, for both state and private schools to convey an accurate and impartial narrative of Lebanon’s recent history.**

iii. Memorialization

20. The Lebanese State should facilitate the creation of a national memorial to commemorate the victims of Lebanon’s multiple conflicts. This memorial should be a space of remembrance and societal acknowledgment for Lebanon’s current and future generations. In addition, the memorial could house a center of studies as well as an archive. Local authorities, such as municipalities, initiate a consultative dialogue with the respective communities to re-name public spaces that are named after political and military leaders who were involved in Lebanon’s conflicts or incidents of serious violations. This dialogue should also provide the opportunity to suggest other forms of memorialization.

Recommendations:

21. **Facilitate the creation of a national memorial to commemorate all victims of Lebanon’s multiple conflicts.**

¹⁵ International Convention for the Protection of All Persons from Enforced Disappearance (General Assembly A/RES/61/177, Doc A/61/448, Dec. 20, 2006, entered into force Dec. 23, 2010).

22. **Rename public spaces and build local memorials that are named after political and military leaders who were involved in Lebanon's conflicts or incidents of serious violations.**

Right to Justice

23. There is in Lebanon an urgent need to establish a strong and unambiguous legal framework for effective investigation and prosecution of the most serious crimes. To be effective, this framework should be based on relevant international norms and standards, and it should be equipped with the necessary safeguards to ensure independence, impartiality and competence as well as the participation of victims.

i. Reinforce the Legal Framework for Criminal Justice and Accountability

24. The Lebanese state should ratify the Rome Statute of the International Criminal Court¹⁶. This will enable perpetrators of genocide, crimes against humanity, and war crimes to be held accountable in future, with consequent deterrent effect. It also sends a strong signal to the Lebanese people that state authorities are committed to accountability and justice.
25. It is recommended that certain rights already recognized by Lebanon through ratification or signature of various human rights treaties be explicitly inscribed in the Constitution. This includes the right to truth and the right to reparation.
26. Furthermore, relevant legislative texts should be amended to bring them into conformity with applicable international law. This will bring much-needed clarity and thus reinforce the rule of law.

Recommendations:

27. **Ratify further key UN Conventions and reform the Lebanese Penal Code.**
28. **Ratify the Rome Statute of the International Criminal Court.**
29. **Incorporate provisions of relevant treaties into the Domestic Legal framework to ensure that it defines and punishes international crimes, namely Genocide, Crimes against Humanity, and War Crimes¹⁷.**
30. **Ratify the Draft Law on the Criminalization of Torture¹⁸, which was submitted in December 2012, and the Draft Law on the Establishment of a National Human Rights**

¹⁶ Rome Statute of the International Criminal Court (2187 U.N.T.S. 90, Jul. 17, 1998, entered into force Jul. 1 2002).

¹⁷ It would be preferable that the definition of these crimes and its elements follow the terms of the Rome Statute. Note that there is no uniform position on the retroactive application of international crimes. See International Covenant on Civil and Political Rights (999 U.N.T.S. 171, Dec. 16, 1966, entered into force Mar. 23, 1976). Lebanon is a party to this Covenant, and at art. 15 it holds that: "No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence, under national or international law, at the time when it was committed . . . [However] Nothing in this article shall prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognized by the community of nations." See, also, European Convention on Human Rights (Nov. 4, 1950, entered into force Sept. 3, 1953), art. 7, which replicates the same provision. The European Court of Human Rights has repeatedly held that this article does not prevent the retroactive application of provisions to prosecute serious crimes under international law, even if at the time they were committed they were not codified under domestic law.

Institution Comprising the National Preventive Mechanism¹⁹, which was submitted in November 2011.

31. **Amend Clause 9 of Article 53 of the Lebanese Constitution to introduce a statement that prohibits the granting of any general or individual amnesty related to Genocide, War Crimes, and Crimes against Humanity.**

ii. Ensure the Right to Justice of Victims of International Crimes and Serious Human Rights Violations

32. The Lebanese State has a duty, under international law, to investigate and punish the most serious crimes. Several widely ratified international human rights law treaties, including some signed, ratified, or acceded to by Lebanon explicitly require state parties to ensure punishment of specific offences, either by instituting criminal proceedings against suspected perpetrators in domestic courts or sending suspects to another appropriate jurisdiction for prosecution. Lebanon also has the obligation to prosecute war crimes²⁰, whether committed during international²¹ or non-international armed conflicts²². In addition to specific treaty obligations, states are required to prosecute Crimes against Humanity under customary international law²³.
33. The Lebanese State should affirm their commitment to criminal accountability, develop a prosecutorial strategy, and entrust specialized units of the judiciary to investigate and

¹⁸ See World Organization Against Torture, “Lebanon has to criminalize torture! A Call to the Lebanese Deputies!” (2013), <http://www.omct.org/human-rights-defenders/statements/lebanon/2013/12/d22480> (English); Draft Law on the Criminalization of Torture (2012), www.ghassanmoukheiber.com/uploads/0000000598.pdf (Arabic)

¹⁹ See Association for the Prevention of Torture, “Lebanon – NPM Designation” (2013), http://www.ap.t.ch/en/opcat_pages/npm-designation-33 (English); Draft Law on the Establishment of a National Human Rights Institution Comprising the National Preventive Mechanism (2011), www.ghassanmoukheiber.com/showArticles.aspx?aid=488 (Arabic)

²⁰ Under the widely ratified Geneva Conventions of 1949 and their 1977 Protocols. Lebanon is a party to all four Geneva Conventions and several Additional Protocols.

²¹ All four Geneva Conventions, when dealing with international armed conflict, identify certain violations as grave breaches. Geneva Convention I (1949), art. 49; Geneva Convention II (1949), art. 50; Geneva Convention III (1949), art.129; and Geneva Convention IV (1949), art. 146 specify that: High Contracting Parties are required to “enact any legislation necessary to provide effective penal sanctions

for persons committing, or ordering to be committed, any of the grave breaches” identified in the treaty. Additionally, each High Contracting Party is “under the obligation to search for persons alleged to have committed, or to have ordered to be committed, such grave breaches, and shall bring such persons, regardless of their nationality, before its own courts. It may also, if it prefers, and in accordance with the provisions of its own legislation, hand such persons over for trial to another High Contracting Party concerned, provided such High Contracting Party has made out a *prima facie* case.” – e ICRC provides a list of what crimes constitute war crimes under customary law; see International Committee of the Red Cross, “Rule 156: Definition of War Crimes”, www.icrc.org/customary-ihl/eng/docs/v1_rul_rule156

²² The ICRC states that, in non-international armed conflicts, the violations specified in Common Article 3 of the Geneva Conventions of 1949 and other offences also constitute war crimes. See International Committee of the Red Cross, “Rule 156: Definition of War Crimes,” www.icrc.org/customary-ihl/eng/docs/v1_rul_rule156

²³ See M. Cherif Bassouni, “Crimes Against Humanity,” Crimes of War, www.crimesofwar.org/a-z-guide/crimes-against-humanity. Additionally, the UN General Assembly has passed multiple resolutions urging for the prosecution of perpetrators of crimes against humanity UN UN . The Extraordinary Chambers in the Courts of Cambodia recently noted that crimes against humanity do constitute customary law: *Prosecutor v. Nuon and Khieu*, Case No. 002/01 (2014), Judgement, para. 176, www.eccc.gov.kh/en/document/court/case-00201-judgement.

prosecute those crimes prioritized by the strategy. Given the complexity and sensitivity of this endeavor, all necessary measures must be taken to respect due process standards and to allow meaningful and safe participation of victims and witnesses in proceedings.

Recommendations:

34. **Develop a prosecutorial strategy, and entrust specialized units of the judiciary to investigate and prosecute those crimes prioritized by the strategy.**
35. **Establish specialized units within the Lebanese judiciary to investigate and prosecute the most serious crimes.**
36. **Undertake a preliminary needs assessment and devise an associated training program for ensuring that staff has the capacity to investigate and prosecute these complex crimes.**

Right to Reparation

37. It is imperative for the Lebanese State to acknowledge the harm suffered by victims of conflicts and to let this acknowledgement result in adequate and sustainable remedies that promote the process of healing and redress.

i. Reparations and Addressing the Needs of Relatives of Victims of Political Violence

38. The families' right to reparation should be recognized, whether or not the full truth is known. It should take into account that the enforced disappearance of a family member causes not only psychological harm to the relatives²⁴, but also usually entails a variety of social, legal, and economic problems that can affect future generations²⁵. The Council of Ministers should issue an executive decree outlining reparation mechanisms for relatives of missing and disappeared persons. It should be based on the proposal that is supposed to be prepared by the Institute for Missing and Disappeared Persons. The decree should also take into account the particular hardship often projected on women. Reparations may include, but are not limited to:
 1. Financial support to the relatives of missing or disappeared persons in accordance with their needs and the harm suffered.
 2. Establishing an appropriate mechanism to provide medical and psychological care for the families of the missing;
 3. Access to livelihoods and education for families; and
 4. Eliminating administrative barriers for asset transfer of any funds or moveable and immovable property that were blocked as a result of the enforced disappearance.
39. Furthermore, the situation of children of non-Lebanese fathers requires attention, and measures should be taken to guarantee their right to work and remain in the country without having to continually renew visas.

²⁴ See UN Human Rights Committee, *Aboussedra v. Libyan Arab Jamahiriya*, Communication No.1751/2008, 2010 (CCPR/C/100/D/1751/2008, Oct. 25, 2010), para. 7.5.

²⁵ Christalla Yakinthou and ICTJ, "Dancing with the Shadows of its Past: The Impact of Disappearance on the Wives of Lebanon's Missing" (forthcoming).

Recommendations:

40. **Issue an executive decree outlining reparation mechanisms for relatives of missing and disappeared persons.**
41. **Recognize the right to reparation to all victims of political violence, and their families, regardless if they are disabled, injured or killed.**

ii. Addressing the Needs of Victims of Arbitrary Detention and Torture, including in Syria and Israel.

42. During the different phases of conflict, both Lebanese and foreign actors engaged in the arbitrary detention of thousands of Lebanese and non-Lebanese residents inside Lebanon and in Israel and Syria²⁶. Although the experiences recounted by former detainees vary, most speak consistently about torture and ill-treatment and the absence of due process, making their deprivation of liberty arbitrary. In addition, many were detained without access to the outside world for lengthy periods of time, sometimes decades²⁷. This further deepened the trauma and hardship for the victims and their families. When released and returned to their families, many continued to face an uphill battle for acknowledgment and for financial, administrative, legal, and psychosocial support²⁸.
43. In terms of remedies and reparations, the Parliament passed Law 364 on Compensations or Pensions for Detainees Released from Israeli Prisons in 2000.²⁹ The law mandated the Ministry of Finance to distribute compensation to Lebanese detainees released from Israeli prisons. The beneficiaries have expressed several reservations about the program and its implementation, while victims of incommunicado detention in Syrian prisons or at the hands of Lebanese state and non-state actors continue to call on the Lebanese State to provide for adequate remedies, and develop and implement reparation programs to meet their needs³⁰. Similarly, programs addressing the needs of victims of torture, including official acknowledgement of their particular plight, do not exist.
44. With regard to redress that should be afforded to victims of torture, Lebanon's obligations are clearly outlined in Article 14 of the UN Convention against Torture and Other Cruel,

²⁶ ICTJ, "Lebanon's Legacy of Political Violence: A Mapping of Serious Violations of International Human Rights and Humanitarian Law in Lebanon, 1975–2008" (2013), 109–110, http://ictj.org/sites/default/files/ICTJ-Report-Lebanon-Mapping-2013-EN_0.pdf

²⁷ Even now, without the established presence of foreign occupying states in Lebanon and without open armed conflict, the issue of arbitrary detention continues. Due to misconduct by intelligence, security²⁷, and armed forces²⁷, as well as systemic shortcomings of the judiciary, detainees are held in pretrial detention for excessive periods of time and are at risk of being imprisoned based on evidence extracted under torture. Many are held without legal basis altogether, particularly migrant workers and refugees²⁷. Another category of persons who are at risk of arbitrary detention and torture are those held for suspected affiliation with terrorist groups.

²⁸ The situation of some of those who were prosecuted and jailed in Syria is particularly complicated. The Syrian authorities, by virtue of their presence in Lebanon at the time, ensured that these people were retried on their return to Lebanon and again found guilty. Their imprisonment was not only prolonged by several months or years, but they now also have a permanent criminal record in Lebanon stemming from an often grossly-unfair trial.

²⁹ Law 364 on Compensations or Pensions for Detainees Released from Israeli Prisons in 2000, see: www.lp.gov.lb/Temp/Files/7367e5fe-52e1-4199-b497-ae0634d6fdf.doc.

³⁰ ICTJ, "Failing to Deal with the Past: What Cost to Lebanon?" (2014), 23, <http://ictj.org/sites/default/files/ICTJ-Lebanon-Impunity-Report-2014.pdf>

Inhuman or Degrading Treatment or Punishment³¹ and the Committee against Torture's General Comment No. 3.³² Being a party to the Convention since 2000, Lebanon has committed to respect, ensure the respect of, and implement the treaty.

Recommendations:

45. **Afford prompt and effective remedy to victims of arbitrary detention and torture by bringing the respective violations to an immediate end.**
46. **Develop a comprehensive national strategy for the rehabilitation of victims of torture and arbitrary detention through a consultative and inclusive process so as to ensure that their specific legal, administrative, material and psycho-social needs are met.**
47. **Ensure and facilitate the access of victims of arbitrary detention to a judicial procedure that will allow them to seek clearance of their records.**

iii. Addressing the needs of the displaced

48. The situation in Lebanon typifies the intrinsic links between displacement, massive human rights violations, and serious breaches of international humanitarian law. First, serious and widespread violations, such as mass killings, arbitrary arrests, torture, and rape, often caused displacement, while some violations, like the destruction of homes and property, were aimed at undercutting the possibility of return. Second, forced displacement was often a deliberate strategy adopted by parties to a conflict and can in itself constitute a war crime or a crime against humanity. Third, displacement left its victims—including sectors of society that had already been in need of particular protection, such as women, children, or refugees—vulnerable to other human rights violations and later contributed to social exclusion or economic disadvantage. It is estimated that as a result, more than 800,000 persons (one third of the population) were displaced during the 1975–1990 conflict, temporarily and permanently, and that another third of the population left the country permanently³³.
49. The Lebanese State has previously instituted reparation plans for persons affected, mostly focused on compensation and restitution. For victims of forced displacement, the Ta'if Agreement recognized “the right of every Lebanese evicted since 1975 to return to the place from which he was evicted.”³⁴ The Ministry of the Displaced was created as well as the Central Fund for the Displaced, and other state institutions have been involved in reparation programs. A host of concerns have been raised by stakeholders, however, including

³¹ Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1465 U.N.T.S. 85, Dec. 10, 1984, entered into force June 26, 1987), art. 14.

³² UN Committee against Torture, General Comment No. 3: Implementation of article 14 by States parties, Nov. 19, 2012 (CAT/C/GC/3), para. 6.

³³ ICTJ, “Lebanon’s Legacy of Political Violence: A Mapping of Serious Violations of International Human Rights and Humanitarian Law in Lebanon, 1975–2008” (2013), 70, http://ictj.org/sites/default/files/ICTJ-Report-Lebanon-Mapping-2013-EN_0.pdf

³⁴ Ta'if Agreement (1989), Second part (D), [www.un.int/wcm/webdav/site/lebanon/shared/documents/Constitution/_e%20Taif%20Agreement%20\(English%20Version\)%20.pdf](http://www.un.int/wcm/webdav/site/lebanon/shared/documents/Constitution/_e%20Taif%20Agreement%20(English%20Version)%20.pdf)

mismanagement, corruption, selectivity (which contributes to inter-communal tensions), and not least, the fact that “No distinction was made between victims and aggressors.”³⁵

50. Resolving issues related to displacement in a sustainable manner, therefore, requires addressing not only past human rights abuses, but also mismanagement of the process and current vulnerabilities. It is particularly important to address these concerns, as a lack of socioeconomic opportunities due to ongoing political violence is often prone to be perceived as a profound injustice. This can then fuel tensions within and among Lebanon’s diverse communities³⁶.

Recommendations:

51. **Facilitate a comprehensive mapping of all incidents where families and communities have been forcibly dislocated, starting from 1975, and analyzing their current situation.**

iv. Addressing the Needs of the Disabled

52. Estimates vary concerning the number of persons who were physically disabled as a result of war and subsequent political violence. In March 1992, the Lebanese government released an estimate based on police reports of 197,506 wounded persons as a result of the war, including 13,455 with permanent disabilities. Subsequent research based on several primary sources estimated that 86.1 percent of the wounded were civilians, with 9,627 persons permanently disabled³⁷.
53. As a result of civil society pressure, the government created the National Council on Disability, and Parliament adopted Law 220/2000. However, the Lebanese State has failed to fully implement the provisions of that law, notably provisions relating to health, education, electoral, training, and labor placement services.

Recommendations:

54. Implement Law 220 pertaining to the national Council on Disability
55. Ratify the Convention on the rights of Persons with Disabilities which was signed in 2007, and ensure the effective implementation of the international treaty through the adoption of domestic laws and related reforms.

Guarantees of Non-Recurrence

56. Institutional reform is a key component of the range of mutually reinforcing measures employed to curb impunity, reinforce the rule of law, rebuild the Lebanese society’s trust in their authorities, and sustainably prevent the recurrence of abuse and conflict.

³⁵ ICTJ, “Failing to Deal with the Past: What Cost to Lebanon?” (2014), 21, <http://ictj.org/sites/default/files/ICTJ-Lebanon-Impunity-Report-2014.pdf>

³⁶ See, generally, ICTJ and Brookings–LSE Project on Internal Displacement, “Transitional Justice and Displacement: Challenges and Recommendations” (2012), <http://ictj.org/sites/default/files/ICTJ%20and%20BrookingsLSE%20Transitional%20Justice%20and%20Displacement%20Report.pdf>

³⁷ This figure, however, is believed to be modest because it is based on a narrow definition of “people with physical disabilities” and does not take into account victims since 1990.

i. Judicial Reform

57. There are structural shortcomings in Lebanon's judiciary that are a significant impediment in the fight against impunity. The structural laws that currently undermine the judiciary's independence stem from the lack of financial, administrative, and institutional autonomy of the judiciary bodies vis-à-vis the Executive. For example, it is the Executive that determines the budget of the judiciary, as it falls within the Ministry of Justice's budget. The Supreme Judicial Council, which acquired monitoring functions, shares with the Ministry of Justice its authority in promoting and transferring judges. However, the Executive appoints most of the Supreme Judicial Council's members. No provision related to appointment and discipline is contained in the Constitution³⁸. In addition, the transfer system and professional development of judges is shared between the Supreme Judicial Council and the Executive. Not governed by any set criteria, it is used to apply pressure on judges or as a means of retribution for politically unpopular decisions.
58. Extensive civil society research in recent years has also identified shortcomings in guaranteeing fair trial norms and standards, and outlined some possible solutions. Particular problems include inadequate legal counsel, admission of evidence that may have been extracted under torture, lengthy pretrial detention, and lack of alternatives to indefinite detention of foreigners whose residency situation is in conflict with the applicable law.
59. Besides the judiciary's shortcomings in terms of independence and due process, the issue of Lebanon's different specialized courts with their extensive competencies warrants attention. Often, these specialized courts have served to sidetrack justice, eroding the reputation and effectiveness of the Lebanese judiciary as a whole."³⁹
60. It is worth recognizing the current efforts to strengthen the independence of the judiciary and its effectiveness, as well as a number of decisions passed recently that represent stepping stones towards establishing a culture of accountability. Yet, in view of consolidating these efforts, the following measures are hereby recommended to strengthen Lebanon's judiciary.
61. The Lebanese state should take measures so that the judiciary enjoys administrative and financial autonomy.⁴⁰ The reform will require the adoption of a new law regulating the judiciary, which would safeguard the independence of judges and ensure their immunity, immovability, and remunerable independence, allowing them to maintain their

³⁸ See Constitution of Lebanon, May 23, 1926 (with amendments). Article 20 is the only provision in the Constitution on judicial authority. The functions of the judiciary and the guarantees to be granted to judges and litigants, as well as the power to appoint, transfer and promote judges, determine their salaries, and settle their administrative affairs, remain subject to the laws submitted by the government and enacted by the legislative power, thus weakening the judiciary.

³⁹ During its last examination of Lebanon in 1997, the Human Rights Committee noted concerns in relation to, for example, "the broad scope of the jurisdiction of military courts in Lebanon, especially its extension beyond disciplinary matters and its application to civilians." The committee suggested that "[t]he 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. UN Human Rights Committee, Consideration of reports submitted by States parties under article 40 of the Covenant: Concluding observations of the Human Rights Committee (Lebanon), May 5, 1997 (CCPR/C/79/Add.78), para. 14.

⁴⁰ *U.N. Basic Principles on the Independence of the Judiciary*.

independence in the face of political meddling.⁴¹ The judiciary should determine their own budgets and the expenditure process of the approved budget.⁴² Judges should be able to enjoy their full right to Freedom of Expression and Freedom of Association within the limits set out in the UN Basic Principles on the Independence of the Judiciary.⁴³ In order to ensure this independence, there should be a comprehensive revision of the prerogatives of the Supreme Judicial Council. Necessary constitutional reforms should be undertaken to enable them to fulfill their mandate with independence and transparency. These measures should also be accompanied by activating the judiciary monitoring bodies.⁴⁴

62. The Military Court must be exclusively mandated to examine disciplinary cases of military personnel. Where there is a civilian party to any military case, it shall be transferred to the relevant judicial or administrative courts. Further, the standards of fairness, independence and impartiality that govern ordinary civilian courts must apply to military courts as well.⁴⁵
63. The Judicial Council, which is mandated to receive cases related to state security, should be reformed;⁴⁶ if reform is not achieved, then it should be abolished.⁴⁷ Indeed, cases are referred to it through a decree from the Council of Ministers, in violation of the principle of separation of powers and judicial independence. Its decisions are final and not subjected to appeal, in violation of the right to review by a higher tribunal.
64. Constitutional Council should have the authority to interpret the Constitution. The High Council for the Prosecution of Presidents and Ministers should be created as stated in the Constitution.
65. Sustained efforts should be made to ensure that all trials strictly adhere to due process standards laid out in international human rights law.⁴⁸ The respect for fair trial norms is a right to which every defendant is entitled and, if violated, the offending State is obliged to provide appropriate remedy. A judicial system that upholds fair trial norms in all their detail will also greatly contribute to the restoration of civic trust.⁴⁹

⁴¹ Currently, article 20 of the Lebanese Constitution does not provide for the independence of the judiciary and instead delegates the regulation of the judiciary to an ordinary law.

⁴² The Arab Center for the Development of the Rule of Law and Integrity, "A Background Paper about the State of the Judiciary in Lebanon", April 2006, at 17, available at:

http://www.arabruleoflaw.org/Files/PDF/Judiciary/English/P2/Lebanon_BackgroundpaperP2S2_En.pdf.

⁴³ UN Basic Principles on the Independence of the Judiciary, art 8 and 9.

⁴⁴ Notably, the Supreme Judicial Council and the Judicial Inspection Committee. See

<http://www.justice.gov.lb/CP/viewpage.aspx?id=171&language=2> and

<http://www.justice.gov.lb/CP/viewpage.aspx?id=203&language=2>.

⁴⁵ UN Human Rights Committee, General Comment No. 32, para 22.

⁴⁶ Suggested areas of reform include the appointment process of judges (currently appointed by the Executive branch, in violation of separation of power and judicial independence principles), and issues related to appeals, retrials, trials in absentia, and failure to differentiate between adults and juveniles. See:

http://lib.ohchr.org/HRBodies/UPR/Documents/Session9/LB/A.HRC.WG.6.9.LBN.2_Lebanon_eng.pdf.

⁴⁷ For further background, see, for example, <http://www.legal-agenda.com/article.php?id=780&lang=ar>.

⁴⁸ Article 14 of the International Covenant on Civil and Political Rights (ICCPR), which Lebanon ratified in 1972, provides that "[i]n the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law."

⁴⁹ Particular focus should be put on the right to legal counsel from the time of arrest. Under certain circumstances, this will require the State to provide legal counsel for defendants that cannot afford an attorney's services. So far,

Recommendations:

66. **Take measures so that the judiciary enjoys administrative and financial autonomy.**
67. **Adopt a new law regulating the judiciary, which would safeguard the independence of judges and ensure their immunity, immovability, and remunerable independence.**
68. **Revise the prerogatives of the Supreme Judicial Council.**
69. **Reform the specialized courts: the Military Court, the Judicial Council⁵⁰ and the Constitutional Council.**
70. **Create the High Council for the Prosecution of Presidents and Ministers as stated in the constitution.**
71. **Ensure respect for Fair Trial standards.**

ii. Security Sector Reform

72. The Lebanese security sector comprises the Lebanese Armed Forces (LAF), the Internal Security Forces (ISF), the General Security, and the State Security. The roles of the various actors have evolved over time. Efforts to rebuild a national security sector and to disarm the different militias began after the war, in the early 1990s. This process was, however, thawed by the continued presence of Syria and Israel on Lebanese territory. It was further undermined by a lack of resources and political will⁵¹.
73. After the departure of Israeli and Syrian forces in 2000 and 2005, respectively, national security and armed forces gradually expanded their capacities and assumed a widely recognized stabilizing role. There are, however, several factors that impede this stabilizing role or otherwise undermine their effectiveness.⁵²
74. Lebanon's various security actors report to different political authorities. This makes the different agencies vulnerable to influence along political lines and accentuates their real or perceived loyalty to sectarian groups, rather than to Lebanese society as a whole. This can undermine their effectiveness, as failure to equally ensure the security and safety of all

the Lebanese bar associations have limited capacities and resources to provide support in this regard, but they are ill-equipped to provide legal counsel to all defendants in need.

⁵⁰ Suggested areas of reform include the appointment process of judges (currently appointed by the Executive branch, in violation of separation of power and judicial independence principles) and issues related to appeals, retrials, trials in absentia, and failure to differentiate between adults and juveniles. See Compilation prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 15 (b) of the annex to Human Rights Council resolution 5/1, Working Group on the Universal Periodic Review, Lebanon, U.N. Doc. A/HRC/WG.6/9/LBN/2(2010),

http://lib.ohchr.org/HRBodies/UPR/Documents/Session9/LB/A.HRC.WG.6.9.LBN.2_Lebanon_eng.pdf

⁵¹ “[i]n allocating security and other administrative offices to their followers, former warlords secured loyalty to themselves instead of to government agencies, linking civil service posts to za’ims (community leaders) and sects.” ICTJ, “Failing to Deal with the Past: What Cost to Lebanon,” 27.

⁵² For an analysis of the legal texts that govern security in Lebanon, see

www.lebarmy.gov.lb/ar/news/?36994#.U_2LJZXlpjo. Note, for example, Constitution of Lebanon, May 23, 1926 (with amendments), art. 49, 64, and 65; Ta’if Agreement, Second part, B (Internal Security Forces) and C (Armed Forces),

[www.un.int/wcm/webdav/site/lebanon/shared/documents/Constitution/e%20Taif%20Agreement%20\(English%20Version\)%20.pdf](http://www.un.int/wcm/webdav/site/lebanon/shared/documents/Constitution/e%20Taif%20Agreement%20(English%20Version)%20.pdf); Decree No. 1157 (1991) (Internal Security Forces); Law No. 17 (1990), article 1 (Internal Security Forces); Legislative Decree No. 102 (1983), articles 1 (National Defense) and 7 (paragraph 2) (State Security); Decree No. 3771 (1981) (Army); and Legislative Decree No. 139 (1959), article 1 (General Security).

sections of society leads to alienation or even remilitarization of the part of population that—correctly or not—feels unprotected or discriminated against. This not only has the adverse effect of increasing tension within society as a whole, but also makes the security services a target themselves, undermining their ability to bring stability through their presence. Notably, the way counter-terrorism measures—although undoubtedly necessary—have been implemented has further undermined civic trust in state institutions.

75. Insufficient coordination among the different governmental instances “undermines the formulation of policies and sector-wide planning [and] erodes operational command.”⁵³ Without incentives to coordinate the consolidation of the security sector and develop it into a set of services that is able collectively to ensure national security, it remains fragmented and marked by detrimental competition among different services. The lack of coordination also extends to other levels of security, like the investigation of crimes, which affects the quality of that output.
76. Consolidation efforts to improve the capacity of the Lebanese security sector to protect the population are desperately needed. Elements of the four main security factors are notoriously understaffed, underequipped, and undertrained. Their work is furthermore weakened by corruption. Diligent oversight by, and accountability to, democratically elected leaders, legislative and judicial bodies, as well as security and law enforcement agencies’ commitment to transparency is an essential component of any effort to regain the trust of the Lebanese society. The current multiplicity of security actors and overlap in their competencies leads to inefficiencies. Multiplicity of authorities to which they report further complicates the coordination among them. The use of force should be limited to the Lebanese State exclusively across all Lebanese territories.⁵⁴ In addition, a comprehensive Disarmament, Demobilization, and Reintegration (DDR) program based on international best practices and standards should be adopted for all militias and armed factions affiliated to parties and groups in Lebanon as an essential step towards establishing the Lebanese State’s monopoly over the use of force. A vetting program should ensure the integration of former members of armed groups who meet criteria established under law into the security sector.

Recommendations:

77. **Assure civilian oversight, external accountability, and transparency**
78. **Create a comprehensive national security strategy in order to strengthen the Lebanese security forces to enable them to fulfill their mandate taking into account the different needs and roles of all the security actors.**
79. **Integrate programs aiming at creating awareness and knowledge about human rights into initial and ongoing trainings of security and law enforcement actors.**
80. **Limit the use of force across all Lebanese territories exclusively to the Lebanese state.**

⁵³ Yezid Sayigh, Carnegie Middle East Center, “Fixing Broken Windows: Security Sector Reform in Palestine, Lebanon and Yemen”, October 2009, 8, http://carnegieendowment.org/les/security_sector_reform.pdf

⁵⁴ Legislative Decree No. 102 (1983) on National Defense, article 1, states that the objective of the national defense is to strengthen the state capacities, and to develop its ability to resist any attack or any aggression against its territory and to ensure national sovereignty and citizens’ safety. [http://www.un.int/wcm/webdav/site/lebanon/shared/documents/Constitution/The%20Taif%20Agreement%20\(English%20Version\)%20.pdf](http://www.un.int/wcm/webdav/site/lebanon/shared/documents/Constitution/The%20Taif%20Agreement%20(English%20Version)%20.pdf).

81. **Adopt a comprehensive disarmament, demobilization, and reintegration program for all militias and armed factions affiliated to parties and groups in Lebanon.**
82. **Implement a comprehensive vetting program to ensure that former members of armed groups who meet criteria established under law are integrated into the security sector.**

iii. Working Towards National Reconciliation and Stability

83. The Ta'if Agreement⁵⁵ set the foundation for amendments to the Constitution in 1991 and cited the necessity of a gradual plan for political and institutional reform in the aftermath of the war. The reforms, notably administrative decentralization⁵⁶, the abolition of political sectarianism⁵⁷, and the creation of an electoral law founded on a nonsectarian basis and with a Senate that ensured representation of all religious communities⁵⁸ were implemented selectively. The shortcoming of reforms contributed to the enduring cycle of violence and the lack of rule of law.
84. Stability in Lebanon is threatened by a myriad of factors, including the marginalization of, and limited governmental authority over, certain areas, particularly Palestinian, Syrian, and other camps, and disadvantaged suburbs of the larger cities and remote areas. Policies that discriminate against the inhabitants of these areas, and other citizens, based on their belonging, gender, age, or legal status constitute a threat to national stability and civil peace, and further undermine trust in state institutions. This situation requires rapid redress⁵⁹. The preamble of the Lebanese Constitution stresses the country's membership in the League of Arab States and the United Nations, and the adherence to the respective organizations' covenants, as well as the Universal Declaration of Human Rights. These texts, along with the Constitution itself, stipulate the "equality of rights and duties among all citizens without discrimination."⁶⁰ However, gaps remain with regard to the equal promotion and protection of rights of all parts of Lebanon's society in law and practice.

⁵⁵ See Ta'if Agreement, Second part,

[www.un.int/wcm/webdav/site/lebanon/shared/documents/Constitution/_e%20Taif%20Agreement%20\(English%20Version\)%20.pdf](http://www.un.int/wcm/webdav/site/lebanon/shared/documents/Constitution/_e%20Taif%20Agreement%20(English%20Version)%20.pdf)

⁵⁶ The Constitution of Lebanon (1926) provides in its preamble, Clause (g), that the "The even development among regions on the educational, social, and economic levels shall be a basic pillar of the unity of the state and the stability of the system."

⁵⁷ The Constitution of Lebanon (1926) provides in its preamble, Clause (h), that "The abolition of political confessionalism is a basic national goal and shall be achieved according to a gradual plan."

⁵⁸ The Constitution of Lebanon (1926) provides, in Article 22, that "with the election of the first Parliament on a national, non-confessional basis, a Senate is established in which all the religious communities are represented. Its authority is limited to major national issues."

⁵⁹ In an ICTJ qualitative study conducted with fifteen focus groups in Greater Beirut, participants across all age and confessional groups complained about religion-based discrimination. This problem has been perpetuated and aggravated by current political, economic, and social institutions. ICTJ, "How People Talk About the Lebanon Wars: A Study of the Perceptions and Expectations of Residents in Greater Beirut," 2014, ii. Participants agreed that political clientelism and sectarianism in different fields fueled constant sectarian tensions and constituted a barrier to overcoming ongoing political violence and addressing the legacy of the war. Affiliation of those providing public services was to political leaders, and not to the nation and its citizenry as a whole. <https://www.ictj.org/sites/default/files/ICTJ-Lebanon-FocusGroup-Report-2014.pdf>

⁶⁰ Constitution of Lebanon, May 23, 1926 (with amendments), Preamble (C), and Article 7.

85. This concerns, in particular, women – including their possibility to pass on Lebanese citizenship to their children regardless of the father’s nationality – and foreign nationals, i.e. migrant workers, refugees, or the stateless. Measures to ensure equal rights for all, such as legislative changes, effective policies and adherence to relevant international instruments should be taken.
86. It is relatively widely accepted that the presence of a large number of Palestinian refugees has contributed to the rising tension in the run-up to the outbreak of violence in 1975. Their continued economic marginalization and the discrimination against them, which is enshrined in the Lebanese legislation, make the Palestinian community vulnerable to exploitation and extremism. Furthermore, the massive influx of Syrian refugees since 2011 puts a strain on the Lebanese infrastructure and economy, further destabilizing the fragile political balance the country has maintained since 1991. Some areas continued to be affected by the outbreak of violence to this day. This fragile situation is believed to be due, in part, to unequal access to State infrastructure, including health services and education, which cements existing inequalities and transforms them into structural disadvantages. This, in turn, gives rise to grievances that then facilitates mobilization of the affected population for violent activities outside the State’s framework. This concerns above all disadvantaged suburbs of the larger cities, remote areas, as well as camps and refugee settlements. Their residents are socially marginalized and stripped of their economic, social and cultural rights, which turns these areas into breeding ground for social and security unrest at any time⁶¹.
87. Only some of the constitutional reforms set out in the Lebanese Constitution and the Ta’if agreement were implemented, while others stalled for various reasons. The way to move forward is through a multi-level national dialogue that seeks to implement those reforms and to suggest others with the aim of developing the political system and promoting transitional justice, democracy, human rights, and the elimination of all forms of discrimination against people in Lebanon.

Recommendations:

88. **Take immediate steps to improve the status and situation of refugees in the country.**
89. **Ratify the 1951 Convention relating to the Status of Refugees as well as the Convention’s 1967 Protocol and to clarify the State’s obligations as well as the refugees’ rights.**
90. **Fully implement the Labor Law No. 129 and the Law on Social Security No. 128 and their amendments of 2010 and extend their application to all refugees.**
91. **Adopt a legal text to define and determine who is a Palestinian refugee as well as who is entitled to refugee status in Lebanon.**⁶²
92. **Adopt a comprehensive and consistent policy to address the crisis of Syrian refugees.**
93. **Devise plans for sustainable development in areas most affected by recurrent conflicts and prone to instability based on transparent criteria established in comprehensive and inclusive consultations.**

⁶¹ See Palestinian Human Rights Organization (2012), 9,

www.palhumanrights.org/rep/ARB/Palestinian_Refugees_Social_Justice_20120220_ARB.pdf

⁶² The applicable laws should grant the right to own lands. The status of Palestinians who do not hold ID cards must be regularized.

94. **Call for a multi-level national dialogue that seeks to implement the constitutional reforms and to suggest others.**

Endnotes: