



مركز توثيق الانتهاكات في سوريا
Violations Documentation Center in Syria

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Syrians in Lebanon

**between Arbitrary Arrest and Unjust
Jurisdiction**

Violations Documentation Center in Syria /2020

Introduction:

Since the breakout of the peaceful movement in Syria in 2011 until now, around one million Syrians have entered Lebanon according to the statistics of the United Nations High Commissioner for Refugees (UNHCR)¹ which is the highest percentage of asylum seekers globally in comparison with Lebanon's total area along with its population. This led to huge conciseness and pressures on the Lebanese government and community, especially under the deteriorating economy of the country. As a result, some political parties related the presence of Syrians to the ongoing crisis in Lebanon such as high unemployment among Lebanese citizens, and they used these relations as justifications for the demand of deporting Syrians to their homeland. Although Syrians have left their country due to harsh conditions including the absence of safety and security, they were victims by such relations.

This situation has adversely affected the Syrians' social, economic and educational life. Their security is clearly influenced too where -under the supervision of the Lebanese judiciary and General Security- dozens of cases of arrest were recorded to include torture and abuse based on arguments that most of the arrests do not have a juridical basis; others were forcefully deported or handed over to the Syrian government which resulted in their disappearance. Furthermore, there were several judicial transgressions in many cases where one of the parties is Syrian even if he/she is a victim. In Lebanon, Syrians live under unjust and insecure conditions because of the lack of impartiality in the Lebanese judicial system when dealing with their cases, especially when it comes to false accusation of being part of the Islamic State of Iraq and Syria (ISIS). These accusations were used as excuses by either Lebanese citizens or the security forces to justify their bad treatment, which allowed numerous violations against Syrians for years, and it recently increased in a significant manner.

In this report, the Violation Documentation Center sheds the light on the reality of Syrian refugees in Lebanon who are stigmatized as "displaced", which is the argument of the Lebanese government for stripping them from their rights under the status of "refugees". This led to many violations at the security and human rights level on one hand, and thousands suffering from the consequences of asylum-seeking and being discriminated against daily. The center documented hundreds of cases and dozens of testimonies in this regard, from Syrian refugees or Lebanese activists, confirming violations and abuses including arbitrary detention, abstaining from submission to the judiciary, impartiality of the Lebanese judiciary, and unfair judicial decisions against Syrians; especially with deportation to Syria without legal grounds violating the international law. Moreover, some cases of Syrians are neglected and silently closed by the judicial system.

¹ According to the statistics of the United Nations High Commissioner for Refugees, the number of Syrian refugees in Lebanon have reached 914, 648 (up until December 2019)

<https://data2.unhcr.org/en/situations/syria/location/71>

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Methodology

- In this report, the Violations Documentation Center relied on several testimonies from Syrian refugees and activists in Lebanon through competent correspondents, which confirm judicial violations against Syrians.
- The center obtained documents, figures of cases and pictures of judicial rulings, from Lebanese lawyers who defend arrested Syrians, proving prejudice of those who pass sentences and their failure in performing professional and humanitarian duties to ensure the right of Syrian refugees in the land they sought escaping war.
- The Violations Documentation Center relied on information regarding these types of violations through its corresponding team.
- The Violation Documentation Center obtained several testimonies confirming arbitrary arrest cases of Syrians for different periods of time without being brought before justice.
- Through open sources, the Violation Documentation Center monitored violations that occurred in some judicial proceedings in Lebanese courts.

challenges

The center faced various difficulties and challenges during working on this report including:

- The difficulty of acquiring accurate statistics of legal overreach that occurred in judicial proceedings due to several reasons, yet the most important ones are jurists, lawyers, and defenders of human rights fearing the control of security bodies.
- Because of concerns of arrest or deportation, a large portion of Syrians residing in Lebanon fears to testify about the violations they face.
- Lebanese activists and jurists fear of testifying about the violations of the Lebanese judiciary because they fear the Lebanese security authorities, especially that of Hezbollah.
- The discretion of the Lebanese authorities of some information regarding legal proceedings related to Syrian refugees.
- The United Nations High Commissioner for Refugees (UNHCR) in Lebanon did not respond to reveal information about any similar cases.
- The culture of legal documentation, along with its importance, is absent from the minds of many Syrians since it was never established in Syria; where they previously did not have the opportunity to exercise their freedom to claim their rights.

The center was able to surpass obstacles to make this report through information and testimonials. In addition, building relationships with witnesses where there was mutual trust made them feel safe when sharing sensitive information with the center. The center spread awareness regarding the role of witnesses in enhancing the culture of claiming rights, that their "individual" cases can be the foundations of a Syrian's future where he/she is fully aware of his/her civil and humanitarian rights, and how to defend and protect these rights. As for statistics and figures, the center was careful as much as possible when trying to access the most reliable information.

Not signing the Refugee Convention in 1951 does not relieve Lebanon from other legal commitments

In Article 1, the 1951 Refugee Convention defines a refugee as: "As a result of events occurring before 1 January 1951 and owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it"², and this definition has been adopted in several international laws.

Although Lebanon did not sign the 1951 Refugee Convention, it is not an excuse for not adhering to the non-refoulement principle of customary international law, especially that Lebanon is a state party to the Convention Against Torture³ that prevents the return of any person to a state where he/she might be subjected to torture or any inhuman treatment. Furthermore, Lebanon should abide by general regulations in judicial handlings and implement its national law in dealing with refugees in a manner that does not violate the judicial procedures followed in international laws, namely:

- Safeguard of arrest (Detention)
- Safeguards of hearings and inquiries
- Safeguards of seizures and searches
- Duration of custody and precautionary measures
- The tribunal should be competent, independent, impartial, and it should not be special
- The public hearings and oral proceedings
- Presumed innocent (the accused is innocent until proven guilty)
- Time limits for deciding cases
- The right to appoint advocates to defend the accused
- Having more than one level of litigation where the award is not produced by a single court in a final manner

Arbitrary Arrests: Security forces threaten the safety of Syrians

The arbitrary arrest is defined as the arrest that violates the human rights provisions of international instruments.

Arbitrary is the excessive use of the right that is given by the authority to officers responsible for the enforcement. In other words, the right that is granted by the legislative power to the executive one which could reach indefensible injustice.

Therefore, it is the right of any arrested person to be brought before justice in order to assess his/her legal status and to consider the charges against him/her if there are any. After that, either he/she shall be tried in accordance with the law of the state he/she is resided in, and to be punished if it is necessary, or to be released.

The arbitrary arrest is criminalized by the Lebanese law according to article 367 of the Penal Code, yet the information that the Violation Documentation Center acquired proves otherwise, especially against Syrian refugees, which is a true violation of due national regulations or international laws criminalizing the action.

² <https://www.unhcr.org/ar/4be7cc27201.html>

³ <https://www.ohchr.org/ar/professionalinterest/pages/cat.aspx>

Arbitrary arrest, beating, and hazing are the significant features of different security bodies when dealing with Syrian refugees in Lebanon including General Security and Army intelligence. These features are almost systemized, especially for reasons of arrest, which created a psychological burden and fear to Syrians even from resorting to security bodies or the judiciary in case of an attack, let alone the security concerns that forced them to flee their country.

During the incident of the Naameh region in Lebanon in June 2019, a thief carrying a military pistol entered shops of Syrians belonging to Nihad Awad, and he threatened Awad to shoot him if he does not give him the money. The thief was provoked by the small amount of money that Awad handed him, and he taunted and shot Awad on his thigh while getting out of the store. Awad refrained from going to the hospital fearing arrest and deportation by the Lebanese General Security because of his expired residence permit, and he preferred to stay home. After two days, Nihad passed away due to complications of his wound.

The most directed charges against the Syrians: testimonies of former detainees

The Violation Documentation Center in Syria was able to document several cases of arbitrary arrest against Syrian refugees in Lebanon. Causes of arrests mostly included misdemeanor charges for using partial or fully forged documents (entry documents to Lebanon/ passports/ General Security stamps/ visas...etc.), entering Lebanon surreptitiously (according to the Lebanese law, this crime does not require prosecution except when it is associated with another crime), and facilitating the surreptitious entry into the country and impersonation (use of supporting documents that belong to others).

Most of the misdemeanor charges are related to engaging in armed conflict in Syria with security work in Lebanon (especially the Aarsal battle) or engaging in terrorist organizations such as Al-Nusra Front, ISIS, and theft. That is according to what stated by Professor Diala Chehade for the Violations Documentation Center, a lawyer who is known for defending Syrians' rights and one of the most Lebanese lawyers who receives cases where a Syrian person is one of the parties:

“

All these cases are sentenced at the end, yet releasing a detainee under ordinary offenses (not subjected to the military court such as trafficking, possession or transfer of arms, for instance) slows down the track of the case due to the lack of a private prosecutor and the inaction of judges, especially with the accumulation of legal cases of the personal allegation, which delays the determining of hearings sessions and issuing of provisions

”

(Ali)⁴ -a Syrian young man from the city of Homs who fled to Lebanon with his family in 2013- told the Violations Documentation Center that he got arrested and was beaten by a military patrol of Hezbollah in Beirut along with his other Syrian friends in the spring of 2016 “because they fled Syria escaping the Syrian regime”.

⁴ The full name of witnesses will not be mentioned for their own safety.

Ali was detained with other Syrians in the Hezbollah Center for ten days, then he was transferred to the General Security Center of Dahieh, which also belongs to Hezbollah, for one month. There were not any charges, but Ali was asked to confess of being part of ISIS at one time and of Al-Nusra Front at another. Because he refused to give such confession, Ali was tortured by Shabeh (hanging a person by his two hands in a manner where he/she is lifted above the ground) and electric shocks.

Ali's testimony confirms the relation between Hezbollah's security agencies and the official Lebanese security bodies where, after his detention by Hezbollah, he was transferred to the Lebanese military police and remained there for two weeks without an investigation or charges being laid. Ali was later transferred to the army intelligence who arrested him without mentioning any charges by adopting the report of Hezbollah's security center where Ali was forced to put his thumbprint. After one week, Ali was transferred again to the General Security center in Beirut where he was arrested for four months, and then he was conditionally released to review the security center for ten days. Ali was arrested again after the follow up for one month and a half, and this pattern continued for over a year until he fled to another state illegally with the Lebanese security keeping his documentations and passport.

The actions of the Lebanese security bodies are illegal because Ali was never brought before justice during months of unjustified detention, and they adopted an unlawful security report by the Hezbollah security center -an unofficial security center- where he was forced to put his thumbprint.

Ali's case is among various arbitrary arrest cases against Syrians in Lebanon that come with the withdraw of documentations, passports, and permits if found. The Violation Documentation Center took the testimony of (Hassan), a Syrian man from Al-Zabadani, who got arrested for the first time because of his fake Lebanese permit he acquired through someone without knowing that it was forged. Hassan knew about his forged permit when he went to renew it, and that is where he was arrested for one month. Then, he was asked to review the General Security Center in Beirut weekly, and, during one of his reviews, he was given a red card indicating that he needs to leave Lebanon. Because his documentations and passport were held, Hassan could not travel to Turkey who imposed a visa on the entry of Syrians on 8 January 2016. Eventually, he went to Sudan where was able to travel to Egypt illegally.

As for (Mahmoud), a Syrian young man from Al Qusayr city in Homs, shared his story of arrest by the Lebanese Security Forces for the Violation Documentation Center and said:

“

I am wanted by the Syrian government because I didn't attend the military service and because all my brothers are activists in the Syrian revolution. I fled to Lebanon with my mother and two sisters after the occupation of the Syrian regime and Hezbollah of Al Qusayr in June 2013. We escaped death miraculously at that time. I worked as a van (small bus) driver in Lebanon and I still did not manage to avoid the continuous threats of Hezbollah and their attempts of abducting me and my family, especially that my brother works in media. Me and my family were investigated multiple times. In June 2017, the army intelligence arrested me on the account of similarity in names. I was held and tortured in the Ministry of Defense in Beirut for 11 days. Then, I was released after my mother appointed a lawyer through a human rights center. However, I could not work or move freely afterward. When I went to renew my residence permit, they placed a deportation order to Syria on my documentation, but I finally managed to escape to Turkey

”

The opinion of Lebanese and Syrian jurists.

Several Syrian and Lebanese activists and jurists reported to the Violation Documentation Center that the illegal practices are repeated to an extent where they became "stigmas" the Lebanese security bodies are known for.

Some of them clarified that the extrajudicial violations happening in Lebanon reflect the extension of the authority of Hezbollah on the other state bodies. In addition, the number of detainees in the prison of Hezbollah, such as the well-known prison between activists "Al Dahieh Prison", has dozens of detainees As well as other Lebanese prisons. The fate of those detainees is unknown due to the concern of lawyers -Lebanese and Syrian- of working on their cases where they are considered as defenders of "terrorism".

Firas Haj Yahya, a Syrian lawyer living in France who is familiar with the Lebanese judicial measures towards Syrian refugees, described the professionalism of the Lebanese judiciary to the Violation Documentation Center saying:

"The suffering of Syrians with the Lebanese judiciary is not something new, especially with Hezbollah intervening in the institutions of the Lebanese state including the judicial authority. This begins with the cases of Roumieh Prison in which several detainees are there for years without trials and extracted from the right to have legal representation. Every time a Lebanese lawyer initiates a follow-up with those cases, he/she would be accused of defending "terrorists" with a large media campaign picturing him\her as "the lawyer of terrorists" to force him\her to abandon the case.

In addition, there are several legal transgressions that reached scandals by the extradition of Syrian detainees in Lebanon who get detained for multiple incidents to the Syrian regime, and the last one was signed recently by judge Ghada Aoun.

during our follow-ups, it is noticeable that any case includes a Syrian party that remains not followed up by the media or advocated by social media. Legal and judicial procedures are not respected, and it is all because one of the parties of the case is a Syrian where he/she is the weakest link" As for Diala Chehadeh, a Lebanese lawyer, she clarified the causes of such unfair treatment by the Lebanese judiciary against Syrians, the reason behind neglecting some of their cases, the most directed accusations towards them, and the percentage of sentences they are charged with in comparison to the ones that lack legal proof:

“

There are several problems for Syrian refugees and residents in Lebanon related to the respect of law, the right to access the judiciary, the enjoyment of a fair trial and equality before the law, and they can be summarized as follows:

- There is a clear prejudice in the judiciary treatment with Syrians concerning their enforced presence in Lebanon. While it is not legally necessary to hold the perpetrator accountable without the mental element of the crime (intention, perception, and free will to commit a crime) in cases such as surreptitious entry to the country with fully or partially forged documentations, most judges tend to condemn the prosecuted Syrians with such offenses and imprison them for two to four months with minor exceptions (innocence/exemption of punishment) that fair judges issued according to the element of necessity and the Universal Declaration of Human Rights.

- Moreover, there is a cruel moral and physical treatment resembling torture against Syrians (and Lebanese) during preliminary investigations of crimes related to engaging in armed conflict in Syria. Such ill-treatment resulted in several forced confessions of serious crimes in Lebanon that were not committed by the suspects. Unfortunately, the military court relies on these preliminary investigations to convict suspects unless they can prove otherwise by their legal representatives through tangible evidence, which is not available in many conditions. Although a provision was issued by the Ordinary Court of Cassation (the fifth chamber of the elder judge Joseph Samaha) in 2018 where the judge confirmed that it is illegal to prosecute Syrians in Lebanon solely because of the engagement in the armed conflict within the Free Syrian Army, the Permanent Military Court violates this decision in most of its provisions; those who are engaged with the Free Syrian Army are convicted and punished with no less than a year of imprisonment (9 months), and they are to hand in the military rifle or pay double its price (around 1,000 dollars).



Chehadah explained the cause of the prolonged periods of the arrest of Syrians in Lebanese prisons and said: "The crowdedness of the General Security Centers with Syrian detainees, along with other Arabs and foreigners, makes them sometimes "stuck" in this certain custody for months waiting for a "place" in judicial custody they are transferred to, or wait in "line" to be transferred to that custody when it gets crowded. Furthermore, they are re-subjected to final and illegal investigations after the execution of sentences ranging from days to weeks. The delay in handling security cases at the Permanent Military Court is caused by the postponing hearings due to the huge number of cases (more than 400 weekly hearings of offenses where at least one-third of it related to Syrian detainees) and adopting a year of imprisonment as a minimum sentence for anyone who admits being part of the armed conflict in Syria.

On the other hand, the increase in the numbers of detainees in a certain prosecution (including detainees in absentia) Might delay the trial. in accordance with the principle of the inadmissibility of the trial without the completion of the presence of all parties to the litigation. That is without the presence of all defendants (delay/not brought before justice due to negligence, failure, or country conditions from road interruptions or strikes) but with lawyers in the criminal files (postponing the hearing for several months due to the legal aid of appointing a lawyer), or to inform the absentia detainees by labeling (under the Code of Criminal Procedure) or the delay of the court or the formal documents related to deciding the defense motion; the plan to obtain evidence proving the innocence of defendants, etc."

The Lebanese judiciary needs to reconsider its impartiality, objectivity, and mechanism

The lack of legal representation for accused Syrians in most of the time and the politicization of the Lebanese judiciary for the most powerful parties in Lebanon -who are different in terms of strategies, agendas and local and regional interests- allowed Lebanese judges to produce sentences according to their affiliation and political reference. This explains (but not justify) the cause of the injustice towards Syrians in Lebanese courts. In this regard, lawyer Chehadah added that:



The reason for the injustice is the increasing role of security bodies which are related to political affiliated parties, and the aberration of those bodies from the laws in force and judicial scrutiny. In addition, causes include the politicization of the judiciary where the judge applies his/her own political thoughts in issuing a sentence instead of standardizing fair legal norms and abiding by jurisprudence issued by a supreme judicial authority (similar to the provision of the Fifth Criminal Chamber chaired by Judge Joseph Samaha mentioned above) Where there is a one out of seven military examining magistrate that prevents the prosecution of Free Syrian Army's members and maintain their freedom unless they are found guilty of war crimes or security threats in or against Lebanon. Also, there is one out of six judges of the military prosecution who demand innocence for the defendants in such charges



The documentation of the Violations Documentation Center

The Violation Documentation Center monitored 334 cases of Syrian refugees who are sentenced over the charges of involvement in Aarsal battle and the killing members of the Lebanese Army in that battle. All these provisions are sentenced by the First Military Court chaired by judge Fadi Sawwan (preliminary military investigating judge by delegation). These cases were monitored between the years 2018 -2019, and they are expected to increase with completing the process of monitoring, investigation, and documentation.

Recommendations

The Lebanese Government

The Violation Documentation Center in Syria calls for the following:

- 1- The commitment of the Lebanese government, along with its security bodies and Lebanese judiciary, to the international laws on the protection of refugees, and the commitment to the principle of non-refoulement of refugees provided by Customary International Law and the Convention Against Torture.
- 2- The commitment of the Lebanese government to the principle of impartiality of the judiciary in dealing with cases and prosecutions of Syrian refugees, all the judicial proceedings that ensure fair trials starting from the judicial investigation phase, appointing lawyers defending accused refugees, and the necessity for trials that are conducted publicly before competent tribunals with the application of the legal principle: Innocent Until Proven Guilty.

3- The commitment of the Lebanese security bodies to legal procedures related to arrest and detention that are in accordance with warrants issued by competent the prosecuting authority. In addition, the Lebanese security bodies should commit to obtaining judicial authorization when raiding or searching houses or workplaces of Syrian refugees.

4- Take all effective legislative, administrative and judicial procedures, or any other necessary procedures to prevent acts of torture against Syrians (and all the detainees) in Lebanese prisons.

United Nations High Commissioner for Refugees in Lebanon (UNHCR)

The Violation Documentation Center in Syria calls for the following:

1- The United Nations High Commissioner for Refugees in Lebanon should activate its role related to the legal protection of Syrian refugees through calling on the Lebanese government not to forcefully return or refoule any refugee, find a legal form in agreement with the Lebanese government, ensure obtaining residency papers for Syrian refugees without any obstacles, and spare them from arbitrary arrest and deportation by Lebanese security bodies because of the lack or expiration of residency papers.

2- Offering Syrian refugees proper legal support through advocates of the United Nations High Commissioner for Refugees to represent them in Lebanese courts, which supplements the role of the UNHCR in legal protection.

Human Rights Organizations

The Violations Documentation Center in Syria calls on the international, Lebanese, and Syrian Human Rights Organizations to pressure the Lebanese government through monitoring the violations of the Lebanese judiciary and the Lebanese security bodies mentioned in this report. Also, to communicate these violations to all relevant international bodies and to call on changing the policies of the Lebanese government in dealing with cases of Syrian refugees through the application of the law in different stages of arrest and jurisdiction.



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